



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: Cooperative Agricultural
Support Services Authority
Fullerton Joint Union High
School District
Orange Cove Irrigation District

A written comment period has been established commencing on **August 8, 2008** and closing on **September 22, 2008**. Written comments should be directed to the Fair Political Practices Commission, Attention **Ashley Clarke**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested per-

son, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **September 22, 2008**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to **Ashley Clarke**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

**AVAILABILITY OF PROPOSED CONFLICT
OF INTEREST CODES**

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Ashley Clarke**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

**THE STATE ALLOCATION BOARD PROPOSES
TO ADOPT AND AMEND VARIOUS
REGULATION SECTIONS, ALONG WITH
TWO ASSOCIATED FORMS, TITLE 2,
CALIFORNIA CODE OF REGULATIONS,
RELATING TO LEROY F. GREENE SCHOOL
FACILITIES ACT OF 1998**

**REGULATION SECTIONS PROPOSED FOR
AMENDMENT: 1859.2, 1859.41, 1859.42, 1859.43,
1859.51 AND 1859.147.**

**REGULATION SECTIONS PROPOSED FOR
ADOPTION: 1859.41.1 AND 1859.42.1.**

FORMS PROPOSED FOR AMENDMENT

Enrollment Certification/Projection, Form SAB 50-01, (Revised 06/08), referenced in Regulation Section 1859.2

Eligibility Determination, Form SAB 50-03, (Revised 06/08), referenced in Regulation Section 1859.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to adopt and amend the above-referenced regulation sections, including two associated forms, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing

is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to adopt and amend the above-referenced regulation sections under the authority provided by Sections 17070.35 and 17075.15 of the Education Code. The proposals interpret and make specific reference to Sections 17052, 17070.35, 17070.51, 17071.25, 17071.75, 17071.76, 17072.20, 17077.40, 17078.27, 17078.72, 17079.20 and 42268 of the Education Code.

**INFORMATIVE DIGEST/POLICY OVERVIEW
STATEMENT**

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

The SAB, at its June 25, 2008 meeting, adopted amendments to the SFP Regulations to implement Assembly Bill (AB) 1014, Chapter 691, Statutes of 2007 (Bass). The proposed amendments were formulated in consultation with the Department of Finance. They add the following components to the enrollment projection calculation method used to establish eligibility for SFP new construction funding:

- Modified weighting mechanisms;
- Birth rate augmentation to kindergarten and first grade enrollment;
- Tenth-year projection; and,
- Utilization of pupil residence for High School Attendance Area (HSAA) reporting.

The existing projection system utilizes the Cohort Survival Enrollment Projection System (Cohort) and four years of historical data to develop an average change, which shows the average change in pupils from one year to the next as students advance through the grade levels. Existing SFP provisions allow for districts to supplement enrollment projections with residential dwelling units to be built in the district and a district-specific student yield factor.

The proposed amendments afford districts multiple options to project their future enrollment. Three modi-

fied weighting formulas are proposed for districts' five-year enrollment projections so as to best represent the enrollment trends of the district. Another amendment allows the use of an average birth-attendance rate to supplement the five-year enrollment projection by comparing historical birth numbers to past kindergarten enrollment to determine how many children born will attend that district. It is also proposed that the current calculation process could be extended for the tenth-year projection, utilizing the Cohort method and eight years of past enrollment data. Finally, when districts report school enrollment by HSAA or a combination of HSAA's, they can continue to report based on school attendance or by a proposed new method of reporting based upon pupil residency.

A summary of the proposed regulatory changes follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments add the definitions of the "Linear Regression" mathematical procedure, ZIP Codes, Proposition 1D, and also incorporate by reference the High School Attendance Area Residency Reporting Worksheet to be used with Form SAB 50-01 when utilizing HSAA residency reporting.

Existing Regulation Section 1859.41 specifies criteria for school districts opting to request eligibility determinations for new construction grants based on a HSAA or Super HSAA basis. The proposed amendment deletes a sentence concerning feeder schools' enrollment.

Proposed adoption of Regulation Section 1859.41.1 sets forth pupil reporting options for projecting HSAA or Super HSAA enrollment. Enrollment may be based upon pupils attending schools in the HSAA or Super HSAA, or upon pupils residing within the HSAA or Super HSAA and submittal of a completed High School Attendance Area Residency Reporting Worksheet. Eligibility based upon residency requires a school district to continue reporting upon residency until a final Form SAB 50-06 has been filed for all projects upon which the school district's apportionment was based upon residency reporting.

Existing Regulation Section 1859.42 sets forth the methodology school districts use to calculate their enrollment projections, including augmenting their enrollment projections by utilizing dwelling units in approved and valid subdivision maps. The proposed amendments specify the fifth-year enrollment projection criteria as new subsection (a), the tenth-year enrollment projection criteria as new subsection (b), and delete the former subsection (b) and final sentence of subsection (c) criteria for augmenting enrollment projections.

Proposed adoption of Regulation Section 1859.42.1 sets forth permissible supplements to the fifth-year projection of pupil enrollment for Non-Special Day Class pupils and not for HSAA and Super HSAA enrollment projections based on residency. Factors which can augment the enrollment projection include pupils that will reside in dwelling units in an approved and valid subdivision map; children born that will attend kindergarten in the fifth calendar year following birth; and modified weighting of enrollment projections that best represents the enrollment trends of the district, based upon submittal of 18 consecutive years of enrollment used to calculate three sets of ten historical enrollment projections.

Existing Regulation Section 1859.43 sets forth pupil reporting criteria for projecting Special Day Class enrollment. The proposed amendments specify the criteria for both fifth-year and tenth-year projections.

Existing Regulation Section 1859.51 provides adjustment factors that increase or decrease a school district's baseline eligibility for new construction. The proposed amendment clarifies that the adjustments apply to changes in projected enrollment for both fifth-year and tenth-year projections.

Existing Regulation Section 1859.147 provides the criteria required for school districts, including HSAA's, to convert their Critically Overcrowded School Facilities Preliminary Apportionment to a Final Apportionment by evidencing sufficient new construction eligibility at the time of conversion. The proposed amendment clarifies that this Section applies to eligibility utilizing a fifth-year projection, pursuant to Section 1859.42(a).

Existing Form SAB 50-01, *Enrollment Certification/Projection*, is submitted by applicant school districts to determine initial eligibility for funding under the SFP. The proposed amendments delete the existing three-pages of text and data fields and add new text and data fields comprising five pages to incorporate the new provisions for enrollment projection methodologies.

Proposed High School Attendance Area Residency Reporting Worksheet (incorporated by reference) is to be submitted with Form SAB 50-01 by school districts when utilizing HSAA residency reporting. The data fields facilitate reporting current and up to the seven previous years' enrollment by residence.

Existing Form SAB 50-03, *Eligibility Determination*, is used by school districts to calculate their eligibility for new construction and modernization funding under the SFP. The proposed amendments change "Specific Instructions" to apply to either the fifth-year or tenth-year projected enrollment in accordance with the new Part I of the revised Form SAB 50-01.

**IMPACT ON LOCAL AGENCIES
OR SCHOOL DISTRICTS**

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects.

**SUBMISSION OF COMMENTS, DOCUMENTS
AND ADDITIONAL INFORMATION**

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than September 22, 2008, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Robert Young, Regulations
Coordinator

Mailing Address: Office of Public School
Construction
1130 K Street, Suite 400
Sacramento, CA 95814

E-mail Address: robert.young@dgs.ca.gov

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 445-0083. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 322-1043.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested

notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the

agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND REGULATION SECTION 1700, SUBGROUP 3.5, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO SURPLUS SCHOOL PROPERTY; USE OF PROCEEDS

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend Regulation Section 1700, Subgroup 3.5, Regulations Relating to Surplus School Property; Use of Proceeds, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation section under the authority provided by Section 17462 of the Education Code. The proposal interprets and makes specific reference to Sections 17462 and 17463.8 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

Education Code Section 17462 requires school districts to use the funds derived from the sale of surplus property for capital outlay purposes or maintenance of school district property. Senate Bill (SB) 1415, Chapter 810, Statutes of 2006 (Scott), amended this Section to prohibit school districts from using the site sale proceeds for any general fund purposes, and added the restriction that the proceeds be spent only for one-time expenditures and not for ongoing expenditures nor general operating expenses.

The SAB adopted regulations to implement SB 1415, which were approved by the Office of Administrative

Law and filed with the Secretary of State on August 2, 2007.

The SAB, at its May 28, 2008 meeting, amended the definition of "Ongoing Expenditures" in the regulations in order to ensure a fiscally sound procedure for the use by school districts of proceeds from the sale of surplus school sites for a one-time funding of an under-funded health or retirement program other than pensions, in conformance with SB 1415. The proposed amendment sets forth specific guidelines for such a one-time payment by a district toward reducing its existing unfunded liability for post-employment benefits other than pensions, as determined using actuarial measurement methods defined in the Governmental Accounting Standards Board Statement 45 (GASB 45). GASB 45 guides districts to account and report for the annual cost of post-employment benefits other than pensions in the same manner as districts currently do for pensions.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulation does not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulation.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation section will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. This regulation only applies to school districts that make the determination to utilize this method of funding health or retirement programs.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than September 22, 2008, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Robert Young, Regulation
Coordinator

Mailing Address: Office of Public School
Construction
1130 K Street, Suite 400
Sacramento, CA 95814

E-mail Address: robert.young@dgs.ca.gov

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to

Robert Young at (916) 445-0083. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 322-1043.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulation with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours.

Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 3. DEPARTMENT FOOD AND AGRICULTURE

CALIFORNIA CODE OF REGULATIONS

TITLE 3. FOOD AND AGRICULTURE

DIVISION 4. PLANT INDUSTRY

CHAPTER 1. CHEMISTRY

SUBCHAPTER 1. FERTILIZING MATERIALS

ARTICLE 1. STANDARDS AND LABELING

NOTICE OF PROPOSED RULE MAKING

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) proposes to amend Section 2300 and adopt Section 2300.1, 2300.2 and 2300.3 of the regulations in Title 3 of the California Code of Regulations.

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comment relevant to the proposed regulatory action to the Department. The

written comment period closes at 5:00 p.m. on September 29, 2008. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Kent Kitade, Program Supervisor
Feed, Fertilizer, Livestock Drug and Egg Regulatory
Services Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Notice is hereby given that the Department of Food and Agriculture proposes to amend regulations in Title 3 of the California Code of Regulations, pursuant to the authority vested by Sections 407, 14501, 14502, 14601 and 14631 of the California Food and Agricultural Code, (FAC), and to implement, interpret, or make specific Sections 14601 and 14631 of the FAC and California Government Code Sections 6250, 6251 and 6254.7.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 407 of the FAC states that the Secretary of California Department of Food and Agriculture (Secretary) may adopt such regulations as are reasonably necessary to carry out the provisions to the FAC which he is directed or authorized to administer or enforce.

FAC Section 14501 states that the intention is to promote the distribution of effective and safe fertilizing materials essential for the production of food and fiber and to provide assurance to the consumers of fertilizing materials that the product purchased is properly identified and is properly represented by the manufacturer of these products.

FAC Section 14502 states that the Secretary shall enforce the statutes and shall adopt and enforce such regulations relating to fertilizing materials as the Secretary determines necessary to carry out the statutes.

FAC Sections 14601 and 14631 state that the director may require proof of labeling statements and claims made for any fertilizing material.

California Government Code Section 6250 states "while mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state." Regulations adopted pursuant to these sections should reflect the intention of the Legislature to make the records accessible to the public.

California Government Code Section 6254.7(d) defines "trade secrets."

To comply with these sections of the FAC and the California Government Code, the Department is proposing to add the following sections to the California Code of Regulations (CCR):

- Section 2300, subsections (k) and (l) which describe the circumstances when specific information on product composition is required and specify the required information on product composition.
- Section 2300.1 which defines the terms "trade secret," "active ingredient" and "inactive ingredient."
- Section 2300.2 describes how manufacturers can designate information to be considered as trade secrets.
- Section 2300.3 describes the conditions of confidentiality for which the Secretary will or will not disclose trade secret information.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.
Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other non-discretionary cost or saving imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The Department aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

1. Create or eliminate jobs within California;
2. Create new businesses or eliminate existing businesses within California; or
3. Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

EFFECT ON SMALL BUSINESS

The Department has initially determined that the proposed changes to the regulations would result in no add-

ed costs to small businesses affected by these proposed changes. The proposed changes clarify the information required by the Secretary for product review and also clarify the conditions of confidentiality. There are no new or additional fees associated with the proposed changes.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Kent Kitade, Program Supervisor
Feed, Fertilizer, Livestock Drug and Egg Regulatory
Services Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
916-445-2140

The backup contact person for these inquiries is:

Dale Rice, Program Supervisor
Feed, Fertilizer, Livestock Drug and Egg Regulatory
Services Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
916-445-0444

Please direct requests for copies of the proposed text of the regulation, the initial statement of reason, the modified text of the regulation, if any, or other information upon which the rulemaking is based, to Mr. Kitade at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at 560 J Street, Suite 220, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice; the proposed text of the regulations; the initial statement of reasons; the Fertilizer In-

spection Advisory Board meeting minutes; the letter of support from western Plant Health Association; Sections 14501, 14502, 14601 and 14631 of the Food and Agricultural Code; Sections 6250, and 6254.7 (d) of the California Government Code and Section 2300 of the California Code of Regulations. Copies may be obtained by contacting Mr. Kitade at the contact address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Mr. Kitade at the contact address listed previously. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Kitade at the previously listed address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: www.cdffa.ca.gov/is/regulation.htm

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Subchapter 3. Eggs (Noticed Published August 8, 2008)

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to amend, Title 3, Subchapter 3. Eggs, Section

1358. of the California Code of Regulations (CCR) pertaining to Reporting Periods.

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comment relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on September 22, 2008. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Anthony S. Herrera, Program Supervisor
Egg Quality Control Program
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Notice is hereby given that the Department of Food and Agriculture, pursuant to the authority vested by Sections 407, 27531 and 27553, Food and Agricultural Code, and to implement, interpret or make specific Sections 27551 and 27631, Food and Agricultural Code proposes to amend CCR Section 1358.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 1358. outlines the Inspection Fees, Reporting Periods, Advanced Payments and Penalties related to the Shell Egg Program. The current Reporting Periods stipulated in 1358. (b) are based on thirteen 4-week periods and are not consistent with the accounting system that the California Shell Egg Industry and the Out of State Shell Egg Industry currently use. The current system in use by these industries is based on twelve reporting periods; eight 4-week and four 5-week reporting periods. The current discrepancy in reporting calendars causes overlaps and inaccuracies in the reporting of shipments and sales of shell eggs, and subsequently causes delinquencies of assessments paid to the Department on those shipments. Shipping reports generated by the department's border stations of out of state eggs

into California and production assessment reports generated by California producers are also affected by the current conflict of reporting periods.

The specific purpose of amending Section 1358.(b), is to provide an accounting/reporting system that will be more accurate to all parties involved in reporting.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.
Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or saving imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

1. Create or eliminate jobs within California;
2. Create new businesses or eliminate existing businesses within California; or
3. Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

EFFECT ON SMALL BUSINESS

The Department has initially determined that the proposed changes to the regulations would result in no added costs to small businesses affected by these proposed changes. This is based on the fact that most businesses utilize a 4-4-5 Retail Accounting Calendar to report their shell egg sales.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which these regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Anthony S. Herrera, Program Supervisor
Egg Quality Control Program
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 445-4243; Fax: (916) 445-0232

The backup contact person for these inquiries is:

Lisa Gonzales, FV & EQC Supervisor
Egg Quality Control Program
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 445-4243; Fax: (916) 445-0232

Please direct requests for copies of the proposed text of the regulations, the initial statement of reason, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Ms. Gonzales at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at 560 J Street, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the petition received from Pacific Egg & Poultry Association, (PEPA). Copies may be obtained by contacting Lisa Gonzales at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Lisa Gonzales at the address indicated

above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Gonzales at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: www.cdffa.ca.gov/is/regulation.htm

TITLE 9. DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

Notice of Rulemaking and Public Comment Period for Amendments to Regulations Contained in

Chapter 3 (Commencing with Section 9795), Division 4, Title 9,

California Code of Regulations

Driving Under the Influence (DUI) Programs

On June 27, 2008, the California Department of Alcohol and Drug Programs (ADP) provided notice of amendments to Chapter 3 (commencing with Section 9795), Division 4, Title 9, California Code of Regulations. That notice established a 45-day public comment period from June 27 through August 11, 2009. Unfortunately that notice did not reach everyone who wished to provide public comment. Therefore the original public notice of June 27, 2008 is hereby rescinded and notice is given that ADP will provide a second 45-day public comment period from August 8, 2008 through close of business on September 22, 2008. To avoid inconvenience to anyone who has already submitted comments, ADP will consider any comments received since the date of the original notice as being submitted during the 45-day public comment period. ADP has not made any additional changes to the regulations since they were originally noticed on June 27, 2008.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 11836 of the Health and Safety Code (HSC) grants ADP statutory authority to license DUI programs. HSC Section 11836.15 requires ADP to adopt regulations needed to license DUI programs. Those regulations are contained in Chapter 3 (commencing with Section 9795), Division 4, Title 9 of the California Code of Regulations (CCR). This regulatory action amends Chapter 3 as summarized below. These changes were developed in collaboration with the DUI Advisory Work Group, which is composed of licensed providers of DUI program services, and representatives of the California Association of Alcohol and Drug Program Administrators (i.e. counties), and the Department of Motor Vehicles.

- The term “Drinking Driver Program” has been changed to “Driving Under the Influence Program” or “DUI” to maintain consistency throughout Chapter 3.
- The term “significant other” was added and defined in order to maintain consistency with Health and Safety Code Section 11837(e).
- Within 150 days prior to expiration of a DUI license, county alcohol and drug administrators are asked to notify ADP whether the licensee has paid county administration and monitoring fees.
- Program enrollment and intake interviews have been combined, procedures for program enrollment have been added, and administrative or clerical staff may conduct the program enrollment and intake interview.
- Certified counseling staff shall conduct assessments of participants’ alcohol and drug problems.
- The licensee shall conduct the first face-to-face interview within 21 days of enrollment.
- Program services were increased from six months to nine months for participants ordered by the court to participate in a DUI program pursuant to Assembly Bill 1353 (Chapter 164, Statutes of 2005).
- Participants are prohibited from attending more than one group counseling session and one make up session per week.
- The maximum fine assessed for a missing Notice of Completion is limited to \$15,000.
- The option of testing for drug use with a chemical screening device has been added if program staff suspect a participant to be under the influence of drugs while attending program services. The licensee may charge the participant for the cost of a chemical test only if the result is positive. Chemical screening devices may already be used if program staff suspect a participant is under the influence of alcohol.
- The minimum participant fee for individuals eligible for general relief or general assistance has been raised from \$5 to \$10 per month. The program may charge participants an additional fee of no more than \$5 for failure to pay program fees on time. The program may charge participants a maximum fee of \$10 each time the participant is granted a leave of absence for vacation. The program may charge participants a maximum fee of \$10 for processing a transfer to another licensed DUI program. Ancillary fees have been limited and specified in regulation. The licensee must justify to ADP charges for ancillary services which exceed the minimum amount listed.
- The program director/administrator shall review requests for leave of absence.
- The licensee may require participants to make up all absences and pay all outstanding fees before granting a leave of absence for vacation.
- The inter-program transfer process has been updated to reflect actual practice.
- Standards for dismissal of participants have been clarified and strengthened to allow DUI programs to dismiss participants who act in a threatening manner toward staff or other participants.

AUTHORITY

These regulations are being adopted pursuant to Sections 11755, 11835, and 11836.15 of the Health and Safety Code; and Section 23161(b) of the Vehicle Code

REFERENCE

The statutory references for this regulatory action are Sections 11836, 11836.10, 11836.12, 11836.14, 11836.15, 11837, 11837.1, 11837.2, 11837.3, 11837.4, 11837.5, 11837.6, 11837.7, 11837.8, 11838.1, 11838.3, 11838.4, 11838.5, 11838.10, and 11838.11 of the Health and Safety Code; and Sections 13352.5, 13353.45, 23161, 23181, Vehicle Code.

FISCAL IMPACT STATEMENTS

Anticipated costs or savings in federal funding to the Federal Government: None. ADP does not anticipate any cost to the federal government as the result of this regulatory action because this regulation does not impact any federally funded State agency or program.

Anticipated costs or savings to any State agency: None.

Anticipated costs to county or local government: None.

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None. ADP has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This regulatory action will not impose a cost on business, or eliminate businesses, small businesses, or jobs. The proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses, the elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.

Impact on Small Businesses: These regulations will impact small businesses, since most DUI programs are small businesses. However these regulations will not have a detrimental impact on small businesses.

Cost Impact on Representative Private Persons or Businesses: These regulations will impact individuals receiving services from DUI programs. ADP has determined that these regulations will impose a \$5/month increase in costs on approximately three percent (3%) of individuals receiving minimum fee services from DUI programs.

Impact on Housing Costs: None. ADP does not anticipate that this regulatory action will impact housing costs in any way.

Nondiscretionary cost or savings imposed on local agencies: None.

LOCAL MANDATE DETERMINATION

ADP has determined that this proposed regulatory action will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.

WRITTEN COMMENT PERIOD

Any interested person or his authorized representative may submit written comments on the proposed regulatory action. **The written comment period closes at 5 p.m. on September 22, 2008.** Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period. Please send written comments to Mary Conway, Regulations Coordinator, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95814. Comments may also be submitted by fax at (916) 323-5873 or e-mail at MCONWAY@ADP.STATE.CA.US.

SCOPE OF TESTIMONY

Section 11346.8(c) of the Government Code prohibits the Department from making any changes to the text of a noticed regulation after the public hearing, unless the change was so sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed action. Therefore please make your comments specific to the regulation discussed in this notice. Please indicate the number of the section you would like changed, the specific change requested, and the reason why you would like the section changed. Since the Department cannot make changes to sections of regulation which were not mentioned in this public notice, during the public comment period the Department will not consider testimony regarding changes which are outside the scope of this notice.

If you wish to request the Department to amend, adopt, or repeal additional sections of regulation, the Department is required to consider those changes in a separate regulatory action.

PUBLIC HEARING

The Department has not scheduled a public hearing on the proposed regulatory action. However, if any person wishes to submit oral comments, the Department will schedule a public hearing upon receipt of that person's written request. Such request must be received at the address shown above no later than 15 days prior to the close of the written comment period.

CONSIDERATION OF ALTERNATIVES

Pursuant to Section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in

carrying out the purpose for which this regulatory action was taken. The Department must also determine that no alternative would be as effective and less burdensome to affected private persons than the regulatory action taken. The Department will consider any alternatives presented during the public comment period.

ADDITIONAL CHANGES

The Department may modify the proposed regulation in response to testimony received during the 45-day public comment period, so long as any additional changes made are sufficiently related to the proposed regulatory action and within the scope of this notice. The Department will make available to any interested persons, for at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation, the full text of any regulation which is changed or modified from the express terms to this regulatory action. The Department will mail a copy of the additional changes to any person who testified or submitted comments during the public hearing (if one is requested), who submitted written comments during the 45-day public comment period, or who requested copies of additional changes. Please call the Department's regulations coordinator at (916) 327-4742 if you wish to receive a copy of any additional changes and you do not plan to present comments regarding the proposed regulatory action.

AVAILABILITY OF TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared and has available for review upon request the text of the proposed regulations discussed in this notice, written in plain English; an initial statement of reasons, explaining the necessity for each regulatory change; and all the information upon which the proposed regulations were based. To obtain a copy, please call Mary Conway at (916) 327-4742 or write to her at the address shown on the first page of this notice. If you received this public notice in the mail, the text of the proposed regulation and the initial statement of reasons were enclosed. The proposed regulations and initial statement of reasons are also available on the Department's web site at <http://www.adp.ca.gov>.

PERSON TO CONTACT FOR ADDITIONAL INFORMATION

The Department's contact for this regulation package is Mary Conway, the Department's Regulations Coordinator, at (916) 327-4742. Millicent Gomes, Deputy Director, Office of Criminal Justice Collaboration

(916) 445-7456 is the back up contact. Please direct any questions regarding the policy contained in the proposed regulatory action to Millicent Gomes. Please direct any questions regarding this public notice, the status of the proposed amendments, or the regulatory process to Mary Conway.

FINAL STATEMENT OF REASONS

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, please call Mary Conway at (916) 327-4742.

The final statement of reasons will also be posted on the Department's web site at <http://www.adp.ca.gov>.

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED AB 118 AIR QUALITY GUIDELINES FOR THE AIR QUALITY IMPROVEMENT PROGRAM AND THE ALTERNATIVE AND RENEWABLE FUEL AND VEHICLE AND TECHNOLOGY PROGRAM

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of a regulation that delineates air quality guidelines to ensure that the newly-established Air Quality Improvement Program and the Alternative and Renewable Fuel and Vehicle Technology Program complement California's existing air quality programs.

DATE: September 25, 2008

TIME: 9:00 a.m.

PLACE: South Coast Air Quality Management
District Auditorium
21865 E. Copley Drive
Diamond Bar, CA 91765-4182

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., September 25, 2008, and may continue at 8:30 a.m., September 26, 2008. This item may not be considered until September 26, 2008. Please consult the agenda for the meeting, which will be available at least ten days before September 25, 2008, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/>

ada.htm for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of new sections 2340, 2341, 2342, 2343, 2344, 2345, of new Chapter 8.1 to title 13, California Code of Regulations.

Background:

On October 14, 2007, Governor Schwarzenegger signed into State law the “California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007” (Assembly Bill 118, Statutes of 2007, Chapter 750). That law provides approximately \$200 million in annual incentive funding to promote alternative fuel and vehicle technologies in order to help meet California’s air quality and climate change goals, advance California’s leadership in clean technologies, and reduce the State’s demand for petroleum. Those incentive funds are generated from increases in the smog abatement, vehicle registration, and vessel registration fees.

Assembly Bill 118 specifies that such incentive funding will be administered under several new programs, including the Air Quality Improvement Program (AQIP), which will be administered by ARB, and the Alternative and Renewable Fuel and Vehicle Technology Program, which will be administered by the California Energy Resources Conservation and Development Commission (Energy Commission). Assembly Bill 118 includes a provision which directs ARB to develop guidelines to ensure that both these programs complement California’s existing air quality programs. The guidelines must ensure that the programs: (1) do not interfere with efforts to achieve and maintain ambient air quality standards and to reduce emissions of toxic air contaminants; and (2) maintain or improve upon emission benefits in the State Implementation Plan and California’s clean fuels regulations.

These new incentive programs will, in general, be conducted in a similar fashion as existing incentive programs. Individuals and businesses apply for funding through the administering agency. The administering agency, using specified criteria and an established process, evaluates the merits of each application and subsequently awards funds to the most promising projects. Individuals and businesses that choose to receive funding participate in incentive programs on a strictly voluntary basis.

Under the oversight of ARB, AQIP will award approximately \$50 million per year through 2015 to a variety of project types specified in Assembly Bill 118, including off-road and on-road equipment, evaporative emission controls, hybrid technologies, lawn and garden equipment, research regarding the air quality impacts of alternative fuels and vehicles, and workforce training to reduce air pollutant emissions. AQIP will play a complementary role to existing ARB incentive programs, such as the Carl Moyer Memorial Air Quality Standards Attainment Program and the Goods Movement Emission Reduction Program, since it will be able to fund a broader variety of project types, including emerging technologies.

Under the oversight of the Energy Commission, the Alternative and Renewable Fuel and Vehicle Technology Program will award approximately \$120 million per year through 2015 to develop innovative technologies and alternative fuels and to deploy them into the marketplace. One focus of such efforts is to help attain California’s greenhouse gas reduction goals. Eligible project types listed in the bill include: improvements to the characteristics of alternative and renewable low-carbon fuels, in-state production and infrastructure for alternative and renewable low-carbon fuels, improvements to light-duty, medium-duty, and heavy-duty vehicle technologies to lower greenhouse gas emissions, acceleration of the commercialization of vehicles and alternative and renewable fuels, related workforce training, and program promotion and education.

The bill also creates a third incentive program, the Enhanced Fleet Modernization Program, which will provide approximately \$30 million in annual funding to expand the Bureau of Automotive Repair’s existing voluntary retirement (car scrap) program, and will include high-emitting passenger cars and light-duty and medium-duty trucks. While the Bureau of Automotive Affairs will administer the car scrap program, ARB is required to establish the guidelines for its implementation.

ARB, the Energy Commission, and the Bureau of Automotive Repair are working in coordination to develop and implement the three incentive programs. The guidelines proposed here represent the first step in such a coordinated approach. In this step, ARB is directed by Assembly Bill 118 to establish guidelines to ensure that two of the new incentive programs—AQIP and the Alternative and Renewable Fuel and Vehicle Technology Program—complement existing air quality programs and fuels regulations. The proposed guidelines, known as the AB 118 Air Quality Guidelines (Guidelines), will be used as an initial screen in the process that the administering agencies will use to evaluate proposed projects for funding under those two programs. Air quality safeguards are already built into the existing car scrap pro-

gram and will be carried forward into the expanded Enhanced Fleet Modernization Program.

Within a year, detailed and specific implementation guidelines for each of the three incentive programs will be developed. The proposed Guidelines will help structure those future efforts. For AQIP and the Alternative and Renewable Fuel and Vehicle Technology Program, those future guidelines will specify the rest of the process (after the screening process outlined in the proposed Guidelines) that the administering agencies will use to select the most promising eligible projects for funding. The Energy Commission plans to propose such additional guidelines for implementing the Alternative and Renewable Fuel and Vehicle Technology Program in the Fall of 2008. ARB plans to propose additional guidelines for implementing AQIP, along with guidelines for implementing the Enhanced Fleet Modernization Program in the Spring of 2009.

Description of the Proposed Regulatory Action:

As mentioned above, Assembly Bill 118 includes a provision (Health and Safety Code Section 44271(b)) that directs ARB to develop guidelines that ensure that AQIP and the Alternative and Renewable Fuel and Vehicle Technology Program complement existing air quality programs and fuels regulations. These Guidelines, currently proposed for Board approval, set standards that the funding agencies (i.e., ARB and the Energy Commission) will use to initially evaluate potential projects for incentive funding under AQIP and the Alternative and Renewable Fuel and Vehicle Technology Program. These Guidelines are designed to screen out those projects that would interfere with existing air quality programs. The pollutants that will be considered in evaluating potential projects include criteria pollutants (oxides of nitrogen, reactive organic gases, carbon monoxide, and particulate matter), toxic air contaminants (set forth in the California Code of Regulations sections 93000 and 93001), and greenhouse gases (such as carbon dioxide, methane, including those defined in AB 32).

Because Assembly Bill 118 is designed to improve, not merely maintain, air quality in California, these proposed Guidelines—which are narrowly designed to ensure that potential projects are not detrimental to air quality—represent the initial step in the process that funding agencies will use to select projects to receive incentive funding. In subsequent steps, each of the two funding agencies will further evaluate potential projects using additional guidelines that are currently under development, as mentioned above. Thus, the specific funding criteria, funding procedures, and their associated guidelines are outside the scope of the proposed Guidelines under current consideration at this hearing.

Assembly Bill 118 lists a wide range of project types that would be eligible for incentive funding, some of which do not have a direct air quality impact. Because of this, the proposed Guidelines clarify which project types would be required to undergo an air quality impact analysis. These project types include most vehicle and equipment projects, most fuel projects, including infrastructure, research projects that involve the construction of infrastructure that triggers permitting or licensing requirements, and research projects that supply fuel for sale. Projects that do not have a direct air quality impact, such as workplace training, research projects other than those types listed above, and certain demonstration projects, would be exempt from such an analysis.

The proposed Guidelines spell out procedures that the administering agencies will use to initially evaluate vehicle and equipment projects, fuel and infrastructure projects, and the localized impacts of potential projects. Using as a basic foundation the robust procedures employed in the well-established and successful Carl Moyer Memorial Air Quality Standards Attainment Program, the procedures laid out in the proposed Guidelines require the air quality impacts of each potential fuel or vehicle technology project to be evaluated using a comparison of the proposed technology with the relevant “baseline” technology. The baseline technology is the conventional fuel or vehicle that the proposed technology would replace. These comparisons incorporate tools and concepts behind the upcoming ARB low-carbon fuel standard to ensure consistency with that regulation. Generally, if a potential project results in emissions that are equal to or less than that of the baseline technology, it will pass that part of the analysis and may be eligible for further consideration for receiving incentive funding.

Some projects that result in minor criteria pollutant or toxic air contaminant increases relative to the baseline technology may still pass the screen if the project reduces other pollutants to a substantial degree, advances the goals of Assembly Bill 118, and the resultant pollutant trade-offs are approved in a public process. As an additional safeguard, the proposed Guidelines require full mitigation of any such emission increases by concurrent emission reductions achieved by other projects receiving incentive funding within the same air basin.

The proposed evaluation procedures also require that funding agencies ensure that potential projects will comply with relevant air pollution requirements. Accordingly, the evaluation of fuel projects includes a check for consistency with any existing fuel specifications that apply. Also, proposed projects that trigger existing permitting, licensing, or environmental review requirements must comply with such requirements and

must commit to implement all air quality mitigation measures recommended and required by the applicable oversight agencies.

To ensure that Assembly Bill 118 is implemented in a manner that ensures the fair treatment of people of all races, cultures, and income levels, potential projects that trigger permitting, licensing, or environmental review requirements will only be approved for funding after a publically-noticed meeting; this will ensure that residents have the opportunity for input regarding projects that are being considered for funding in their community. Such projects will be included in an annual analysis to evaluate whether they are being located disproportionately in environmental justice areas.

COMPARABLE FEDERAL REGULATIONS

There are no federal regulations comparable to the proposed Guidelines. The proposed Guidelines delineate the first phase in the process by which ARB and the Energy Commission will select projects to award public incentive funds. Participation by individuals and businesses in the incentive programs established by Assembly Bill 118 is strictly voluntary.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is titled, "Staff Report: Initial Statement of Reasons for Rulemaking — Proposed AB 118 Air Quality Guidelines for the Air Quality Improvement Program and the Alternative and Renewable Fuel and Vehicle Technology Program."

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on the ARB web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on September 25, 2008.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Ms. Johanna Levine, Air Pollution Specialist, at (916) 324-6971 or by email at jlevine@arb.ca.gov, or Mr. Andrew Panson, Staff Air Pollution

Specialist, at (916) 323-2881 or by email at apanson@arb.ca.gov.

Further, the agency representative and designated back-up contact persons, to whom non-substantive inquiries concerning the proposed administrative action may be directed, are Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB web site for this rulemaking at www.arb.ca.gov/regact/2008/aqipfuels08/aqipfuels08.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would create slight costs to ARB and the Energy Commission in the development and implementation of this regulation. Funding for these positions is included in the proposed California State budget for fiscal year 2008-2009. That notwithstanding, the proposed regulatory action would not create costs or savings to any other State agency, or in federal funding to the state, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to State or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. AQIP and the Alternative and Renewable Fuel and Vehicle Technology Programs are voluntary and provide grants for clean fuels and technologies. Therefore, the Guidelines will not impose an economic cost on businesses.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact direct-

ly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to Title 1, CCR, section 4, that the proposed regulatory action would not affect small businesses because participation in the affected incentive programs is strictly voluntary with respect to small businesses and there are no mandated requirements and no associated impacts.

The proposed regulation will not impose reporting requirements on private persons, businesses, or State agencies.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the board or that has otherwise been identified and brought to the attention of the board would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Board, written comments submissions not physically submitted at the meeting must be received **no later than 12:00 noon, Pacific Standard Time, September 24, 2008**, and addressed to the following:

Postal mail: Clerk of the Board,
Air Resources Board
1001 I Street, Sacramento,
California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests, but does not require, that 30 copies of any written statement be submitted and that all written statements be filed at least ten days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Additionally, the Board requests, but does not require, that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code sections 39600, 39601, and 44271. This action is proposed to implement, interpret, and make specific sections 39600, 39601, and 44271.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text, as modified, is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language, as modified, could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER REGULATIONS FOR PORTABLE OUTBOARD MARINE TANKS AND COMPONENTS

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of regulations and test procedures for portable outboard marine tanks and components.

DATE: September 25, 2008

TIME: 9:00 a.m.

PLACE: South Coast Air Quality Management
District
Auditorium
21865 E. Copley Drive
Diamond Bar, CA 91765

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., September 25, 2008, and will continue at 8:30 a.m., September 26, 2008. This item may not be considered until September 26, 2008. Please consult the agenda for the meeting, which will be available at least 10 days before September 25, 2008, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed new sections to title 13, California Code of Regulations, Chapter 9, and Article 6.5 sections 2468, 2468.1, 2468.2, 2468.3, 2468.4, 2468.5, 2468.6, 2468.7, 2468.8, 2468.9 and 2468.10. Proposed adoption of the incorporated documents: "CP-510 Certification Procedure for Portable Outboard Marine Tanks and Components", "TP-511 Diurnal Rate from Portable Outboard Marine Tanks", and "TP-512 Permeation Rate from Portable Outboard Marine Tank Fuel Hoses and Portable Outboard Marine Tank Primer Bulbs."

Staff is proposing to add new sections to title 13 that will enable the control of emissions from portable outboard marine tanks and components (OMT). The OMTs are gasoline tanks with a capacity of 30 gallons or less and the accompanying fuel hoses, primer bulbs and tank caps used on various size boats. For small and medium size boats the gasoline tanks and engines are portable to facilitate transportation, maintenance and storage. Portable outboard engines do not have a fuel pump so the primer bulb is used to prime (transfer gasoline from the tank to the engine through the fuel hose) the engine to ensure it will start. After the engine is running the operating cycle continues the flow of gasoline.

The proposed regulation would require performance standards that limit emissions from tanks to be no more than 2.5 grams per meter squared per day ($\text{g}/\text{m}^2/\text{day}$), emissions from fuel hoses and primer bulbs to no more than 15 $\text{g}/\text{m}^2/\text{day}$, and caps to be self sealing. Staff is proposing that all new OMT tanks and components be subject to the proposed performance standards starting in January 2010 for hoses and caps and starting in January 2011 for tanks and primer bulbs.

The ARB staff estimates that with the approval of the proposal, ROG emissions will be reduced by 4.2 tons per day (tpd) by the year 2020. These emission reductions result from reducing emissions from diurnal emissions, leaks from tanks, and permeation emissions from hoses and primer bulbs.

Under the proposed regulation, consumers will save about 4.6 gallons of gasoline per tank. At a cost of \$3.50 per gallon of gasoline the fuel lost costs consumers over \$16 per tank per year. Statewide, over the 18 years estimated for the entire population of OMTs to be replaced (often called the lifetime of the regulation) this amounts to about \$32 million in cost saving.

The total cost from the proposed regulation will be about \$4.5 million including costs associated with the proposed certification program and new test procedures. The net cost savings is approximately \$27.5 million. With nearly 90 million pounds of ROG reduced over the useful life of OMTs the cost savings is approximately \$0.30 per pound of ROG reduced.

COMPARABLE FEDERAL REGULATIONS

The US Environmental Protection Agency (U.S. EPA) is in the final stages of promulgating requirements to control emissions from Marine Spark Ignited and Small Spark Ignited Engines, Vessels, and Equipment. The U.S. EPA is expected to adopt the requirements this summer. The OMT requirements promulgated by EPA are expected to be the same with similar implementation dates, as ARB's proposed regulatory action.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The ISOR also includes the Performance Standards, and Test Procedures for Portable Outboard Marine Tanks and Components.

Copies of the ISOR and the full text of the proposed regulatory language, may be accessed on ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on September 25, 2008.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact, Mr. LaMar Mitchell, by phone at (916) 445-9371 or by email at lmitchel@arb.ca.gov or Mr. Dennis Goodenow, by phone at (916) 322-2886 or by email at dgoodeno@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Trini Balcazar, Regulations Coordinator, (916) 445-9564. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at www.arb.ca.gov/regact/2008/omt2008/omt2008.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to state or local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would affect small businesses.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, September 24, 2008**, and addressed to the following:

Postal mail is to be sent to: Clerk of the Board
Air Resources Board
1001 I Street, 23rd Floor
Sacramento, CA 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

Please note that under the California Public Records Act (Govt. Code Section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g. your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in sections 39600, 39601, 43013, 43018, and 43101 of the Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). The action is proposed to implement, interpret and make specific sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017, and 43018 of the Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the pro-

posed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

TITLE 14. DELTA PROTECTION COMMISSION

[Notice published August 8, 2008]

The Delta Protection Commission ("Commission") proposes to amend its administrative procedures governing appeals of local agency actions to the Commission. The changes primarily add procedures for appeals initiated by the Commission, add a provision governing withdrawals of appeals, alter various time periods regarding appeals, and encourage staff to make written as opposed to oral recommendations concerning whether an appeal is within the Commission's jurisdiction and whether it raises an appealable issue.

PROPOSED REGULATORY ACTION

The Commission proposes to amend sections 20000 through 20005, 20008 and 20009 in Title 14 of the California Code of Regulations (CCR), and to add sections 20004.1, 20009.1 and 20009.2 to that title. These sections, along with sections 20010 through 20013, which are not being altered, concern the procedures by which the Delta Protection Commission processes, considers, and resolves appeals from local governmental decisions.

PUBLIC HEARING

The Commission will hold a public hearing during its September 25, 2008 meeting, which will start at 5:30 p.m. and will be held at City of Antioch Maintenance Service Center, 1201 West 4th Street, Antioch, California, 94509. The facility is wheelchair accessible. At the hearing, any person may present comments orally or in writing relevant to the proposed action described below in the Informative Digest.

WRITTEN COMMENT PERIOD

Any person may also present comments in writing or by email before the public hearing. To be considered by

the Commission, written submissions not physically submitted at the hearing must be received no later than 12:00 noon, September 24, 2008.

Postal mail is to be sent to:

Linda Fiack, Executive Director
Delta Protection Commission
P. O. Box 530
Walnut Grove, CA 95690

Electronic mail is to be sent to:

lindadpc@citlink.net

AUTHORITY AND REFERENCE

Public Resources Code 29770(c) authorizes the Commission to adopt the proposed regulations, which would implement, interpret, or make specific sections 29770–29772 of the Public Resources Code.

INFORMATIVE DIGEST

Public Resources Code sections 29770–29771 establish the procedures by which the Commission processes, considers and resolves appeals from local governmental decisions which are brought before the Commission. Appeals may be initiated by an aggrieved person or by the Commission on its own initiative. Public Resources Code 29770(c) authorizes the Commission to adopt regulations to implement, interpret and make specific these requirements.

The Commission proposes to change its regulations governing appeals as follows:

Section 20000 adds that appeals may be initiated by an aggrieved person or by the Commission on its own initiative.

Sections 20001–20004, 20008 and 20009 are amended to make it clear that they only apply to appeals initiated by an aggrieved person, as opposed to appeals initiated by the Commission.

Section 20001 also changes the time for filing an aggrieved person appeal from 10 calendar days to 10 working days after the date on which the pertinent local government has taken final action.

Section 20003 also states that aggrieved person appeals are limited to lands located exclusively within the primary zone.

Section 20004.1 is a new section allowing an appeal to be initiated by the Commission in the absence of an appeal by an aggrieved person.

Section 20005 is amended so that, in addition to applying to aggrieved person appeals, it will also apply to appeals initiated by the Commission.

Section 20008 is amended to alter the time for hearing the first phase of an aggrieved person appeal. Under the amendment the hearing is to take place at the first available Commission meeting occurring at least 15 working days after the filing of an appeal, but in no event more than 60 calendar days after the filing. This section also adds that staff are strongly encouraged, but not mandated, to make written as opposed to oral recommendations concerning whether an appeal is within the Commission's jurisdiction and whether it raises an appealable issue.

Section 20009.1 is a new section describing procedures for appellants withdrawing their appeals.

Section 20009.2 is a new section providing that if an appeal is initiated by the Commission, any interested person may assert, prior to or at the onset of the hearing, that the appeal raises issues not within the Commission's jurisdiction or does not raise an appealable issue. If no assertion is made or if the Commission determines that the appeal raises an appealable issue within its jurisdiction, the Commission shall hear the appeal on the merits.

DETERMINATIONS REGARDING THE PROPOSED ACTION'S IMPACTS

The Commission has made the following determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost or savings to any federal funding to the state: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Potential cost impact on private persons or directly affected businesses: None.
- Cost impacts on representative private person or business: None. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- No impacts on small businesses because the amendments do not create any new rights or obligations. The amendments merely provide technical details concerning existing statutory provisions governing appeals.
- Adoption of these regulations will not (1) create or eliminate jobs within California, (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Significant effect on housing costs: None.

Basis of Determinations

The preceding determinations are based upon the fact that the appeals allowed by the proposed regulations are already allowed by Public Resources Code sections 29770–29771.

PLAIN ENGLISH OVERVIEW AND TEXT
AVAILABILITY

Plain English Policy Overview

The purpose of the proposed regulation is to modify the procedures by which the Commission processes, considers and resolves appeals from local governmental decisions which are brought before the Commission. Appeals may be initiated by an aggrieved person or by the Commission on its own initiative.

Availability of Text in Plain English

The text of the proposed regulations is available in plain English from Linda Fiack, Executive Director, listed below as the Contact Person.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission must determine that no alternative it considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSON

Inquiries concerning the substance of the proposed action may be directed to:

Linda Fiack, Executive Director
Delta Protection Commission
P. O. Box 530
Walnut Grove, CA 95690
Tel: (916) 776–2292
lindadpc@citlink.net

Sheila Singleton, AGPA
Delta Protection Commission
P. O. Box 530
Walnut Grove, CA 95690
Tel: (916) 776–2290
Fax: (916) 776–2293
dpc@citlink.net

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the Initial Statement of Reasons, the modified test of the regulations, if any, or other information upon which the rule-making is based to:

Linda Fiack, Executive Director
Delta Protection Commission
P. O. Box 530
Walnut Grove, CA 95690
Tel: (916) 776–2292
lindadpc@citlink.net

Sheila Singleton, AGPA
Delta Protection Commission
P. O. Box 530
Walnut Grove, CA 95690
Tel: (916) 776–2290
Fax: (916) 776–2293
dpc@citlink.net

AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date of this notice published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, and the Initial Statement of Reasons. Copies may be obtained by contacting Linda Fiack, Executive Director or Sheila Singleton, Associate Government Program Analyst, at the address or phone number listed above.

Once the Final Statement of Reasons is prepared, copies may be obtained by contacting Linda Fiack, Executive Director or Sheila Singleton, Associate Government Program Analyst, at the address or phone number listed above.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Commission adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Linda Fiack, Executive Director, or Sheila Singleton, Associate Government Program Analyst, at the address indicated above. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**HOW TO ACCESS MATERIALS
ON THE INTERNET**

Copies of this Notice, the proposed text of the regulations, and the Initial Statement of Reasons can be found on the Delta Protection Commission's website: www.delta.ca.gov. Once the Final Statement of Reasons is prepared, a copy of this document may also be found on Delta Protection Commission's website listed above.

**TITLE 17. CALIFORNIA INSTITUTE
FOR REGENERATIVE MEDICINE****NOTICE OF PROPOSED
REGULATION AMENDMENTS
California Code of Regulations
Title 17. — Public Health
Division 4 — California Institute For
Regenerative Medicine
Chapter 5, Section 100500**

Date: July 29, 2008

Deadline for Submission of Written Comment:
September 22, 2008 — 5:00 p.m.

Public Hearing Date: September 22, 2008

Subject Matter of Proposed Amendments:
**Grant Administration Policy for Academic and
Non-Profit Institutions**

Sections Affected: The proposed regulatory action amends the document incorporated by reference into

Chapter 5, Section 100500, of Title 17 of the California Code of Regulations.

Authority: Article XXXV of the California Constitution and Health and Safety Code Section 125290.40, subdivision (j).

Reference: Sections 125290.30, 125290.35, 125290.40, 125290.45, 125290.50, 125290.60, 125290.70, 125292.10, Health and Safety Code.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The California Institute for Regenerative Medicine ("Institute" or "CIRM") was established in 2005 after the passage in 2004 of Proposition 71 (the "Act"), the California Stem Cell Research and Cures Initiative. The statewide ballot measure established a new state agency to make grants and provide loans for stem cell research, research facilities and other vital research opportunities. The Independent Citizens' Oversight Committee ("ICOC") is the 29-member governing board for the Institute. The ICOC members are public officials, appointed on the basis of their experience earned in California's leading public universities, non-profit academic and research institutions, patient advocacy groups and the biotechnology industry. The Act charges the ICOC with developing standards and criteria to make grant awards and to develop standards and criteria for proper oversight of awards. (§ 125290.50.) To that end, CIRM adopted the CIRM Grants Administration Policy for Academic and Non-Profit Institutions ("Non-Profit GAP"). The Office of Administrative Law approved the Policy and it is now codified in the California Code of Regulations under Title 17, Division 4, Chapter 5, Section 100500. This Policy states the rights and responsibilities of academic and non-profit recipients of CIRM research funding. Principal investigators, program directors, and organizational officials with grants management responsibilities may refer to pertinent sections for answers to questions that arise concerning the award and administration of the grants. By accepting a CIRM grant award, grantees agree to comply with the provisions set forth in the policies for the entire project period of the grant, and thereafter.

The proposed amendments to the Non-Profit GAP include non-substantive changes without regulatory effect, changes made for clarity and substantive changes. The proposed amendments in this rulemaking action interpret, clarify and make specific the regulations in Section 100500.

The amendments are to the document incorporated by reference through subdivision (a) of Section 100500 entitled "CIRM Grants Administration Policy for Academic and Non-Profit Institutions" with a footer that now dates the document as "Non-Profit and Academic

Institution Grants Administration Policy — OAL Approved — Eff. 3/30/07”. The amendment to subdivision (a) of Section 100500 will now reference a footer that dates the document as “Non-Profit and Academic Institution Grants Administration Policy — July 15, 2008.”

DISCLOSURES REGARDING THE PROPOSED AMENDMENTS

CIRM has made the following initial determinations:

Mandate on local agencies and school districts:

None.

Technical, Theoretical or Empirical Studies, Reports or Documents: None.

Submittal of Comments:

Any interested party may present comments in writing about the proposed amendments to the agency contact person named in this notice. Written comments must be received no later than 5:00 p.m. on September 22, 2008. Comments regarding this proposed action may also be transmitted via e-mail to Nonprofit-GAP@cirm.ca.gov or by facsimile transmission to (415) 396-9141.

Public Hearing:

CIRM will hold a public hearing starting at 11:00 a.m. on September 22, 2008, at CIRM offices located at 210 King Street, San Francisco, California 94107. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed amendments.

Effect on Small Business:

CIRM has determined that the proposed amendment will have no impact on small businesses. The regulation implements conditions on awarding and administering grants for stem cell research. This research is conducted almost exclusively by large public and private nonprofit institutions. As such, the amendments to the regulation are not expected to adversely impact small business as defined in Government Code Section 11342.610.

Impact on Local Agencies or School Districts:

CIRM has determined that the proposed amendments do not impose a mandate on local agencies or school districts, nor do they require reimbursement by the state pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the amendments do not constitute a “new program or higher level of service of an existing program” within the meaning of Section 6 of Article XIII of the California Constitution. CIRM has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed amendments.

Costs or Savings to State Agencies:

CIRM has determined that no savings or increased costs to any agency will result from the proposed amendments.

Effect on Federal Funding to the State:

CIRM has determined that no costs or savings in federal funding to the state will result from the proposed amendments.

Effect on Housing Costs:

CIRM has determined that the proposed amendments will have no effect on housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses:

CIRM has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California Businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses:

CIRM has made an initial determination that the adoption of these amendments will not have a significant cost impact on representative private persons or businesses. CIRM is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed amendments.

Impact on the Creation, Elimination, or Expansion of Jobs:

CIRM has made an initial determination that it is unlikely the proposed amendments will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Consideration of Alternatives:

In accordance with Government Code Section 11346.5, subdivision (a)(13), CIRM must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed regulatory action. CIRM invites interested persons to present statements or arguments with respect to alternatives to the proposed amendments at the scheduled hearing or during the written comment period.

Availability of Statement of Reasons and Text of Proposed Regulations:

CIRM has prepared an Initial Statement of Reasons, and has available the express terms of the proposed amendments, all of the information upon which the amendments are based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text

of the regulation may be obtained from the agency contact person named in this notice. The information upon which CIRM relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

Availability of Changed or Modified Text:

After holding the hearing and considering all timely and relevant comments, CIRM may adopt the proposed amendments substantially as described in this notice. If CIRM makes modifications that are sufficiently related to the originally proposed text of the amendments, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before it adopts the regulations as amended. Requests for the modified text should be addressed to the agency contact person named in this notice. CIRM will accept written comments on any changes for 15 days after the modified text is made available.

Agency Contact:

Written comments about the proposed regulatory action; requests for a copy of the Initial Statements of Reasons, the proposed text of the amendments; and inquiries regarding the rulemaking file may be directed to:

Cynthia Schaffer
California Institute for Regenerative Medicine
210 King Street
San Francisco, CA 94107
(415) 396-9241

Scott Tocher
California Institute for Regenerative Medicine
210 King Street
San Francisco, CA 94107
(415) 396-9136

Questions on the substance of the proposed regulatory action may be directed to:

Amy Lewis, Grants Management Officer
California Institute for Regenerative Medicine
(415) 396-9110

The Notice of Proposed Regulatory Amendment, the Initial Statement of Reasons and any attachments, and the proposed text of the amendments and existing regulation are also available on CIRM's website, www.cirm.ca.gov.

Availability of Final Statement of Reasons:

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code Section 11346.9, subdivision (a), may be obtained from the contact person named above.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Proposed Rulemaking
Title 17, California Code of Regulations

SUBJECT: Childhood Lead Poisoning Prevention Fees, **DPH-07-007**

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Public Health will conduct a public hearing commencing on September 26, 2008, at 10 a.m., in the Auditorium, 1500 Capitol Avenue, Sacramento, CA, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

To fund activities under the Childhood Lead Poisoning Prevention Act of 1991 (CLPP Act; Health and Safety Code Sections 105275 *et seq.*), a fee is imposed upon "*manufacturers and other persons . . . that were formerly and/or are presently engaged in the stream of commerce of lead or products containing lead, or who are otherwise responsible for identifiable sources of lead. . .*" The Act directs the Department¹ to adopt regulations establishing the mechanism and formula for collecting the fees from the industries responsible for current and/or historic environmental lead contamination in the State.

This regulatory action would amend Title 17, CCR, Division 1, Chapter 6, Section 33001 *et seq.*, governing assessment of fees upon persons that were formerly and/or are presently engaged in the stream of commerce of lead or products containing lead in order to provide necessary clarification to the existing regulations. This regulatory action is in part in response to statements contained in a Decision and Recommendation issued 10/6/06 by the State Board of Equalization Appeals Division, which concluded that certain practices and conclusions of the Department of Health Services² in connection with fees assessed under the CLPP Act are in-

¹Effective July 1, 2007, the California Department of Health Services was split into two separate agencies, the Department of Health Care Services, and the Department of Public Health. This split was effected by the passage of S.B. 162, Chapter 241, Statutes of 2006. The subject of this proposed regulatory package was assigned in that legislation to the Department of Public Health.

²Predecessor to the Department of Public Health.

terpretations of regulations that should be specifically included in the codified regulations.³

This regulatory action clarifies the current long-standing practice of the Department with regard to fee liability in instances where the business assets associated with environmental lead contamination have been transferred from one business entity to another. This regulatory action in no way alters the current long-standing method by which the Department determines who is assessed a fee under the CLPP Act, and how the fee is calculated. This regulation does not increase or decrease the total amount of fees to be assessed, and therefore it is revenue neutral.

The adopted changes are explained as follows:

Section 33010 is amended to clarify the definition of “historically associated” to include that acquisition of significant operating assets, such as a trademark, a factory or a refinery, can establish a significant relationship between business entities.

Section 33020 is amended to clarify that the amount of the total gallons of architectural coatings is based on products distributed in 1978 from any and all business operations for which the distributor is currently responsible.

Section 33025 is amended to clarify that the amount of motor vehicle fuel distributed in 1991 is based on fuel distributed from any and all business operations for which the distributor is currently responsible.

Section 33030 is amended to clarify that fees attributable to releases of lead into ambient air are based on the sum of releases lead and lead compounds, as reported to the United States Environmental Protection Agency. It would specify that facilities will be assessed fees for all reported releases of lead into ambient air, including in instances where the facility has recently halted operations. It would also correct a typographical error in the current regulations, correcting “Superfunds” to read “Superfund”.

Section 33040 is amended to make technical changes reducing the burden on fee payers seeking exemption from the fees. The requirement that an applicant for exemption provide information as to what lead ingredients were purchased from whom would be removed, and the requirement that a business entity granted an ex-

emption must re-apply for exemption annually would be removed. The amendment would also change an obsolete address where applications are to be filed.

New Section 33060 is adopted to identify the process that a fee payer can use to request a determination that another business entity is currently responsible for the business operations that historically contributed to environmental lead contamination. The new regulation clarifies that the Department makes this determination based on the best available information, even in instances where no application has been filed seeking a determination. This regulation identifies the documentation that a fee payer seeking a determination under this section shall submit to the Department. The new section also sets forth the ability of an affected party to seek reconsideration of such a transfer of fee liability.

AUTHORITY

Sections 105300, 105310, 124165 and 131200, Health and Safety Code; Ch. 799, Stats. 1991, Sec. 11.

REFERENCE

Sections 105250, 105310, 124160, 124165, 131050, 131051 and 131052, Health and Safety Code.

COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations and Hearings by 5 p.m. on September 29, 2008, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD. Written comments may be submitted as follows:

1. By mail or hand-delivered to the Office of Regulations and Hearings, California Department of Public Health, MS 0507, 1501 Capitol Avenue, P.O. Box 997377, Sacramento, CA 95899-7377. It is requested but not required that written comments sent by mail or hand-delivered be submitted in triplicate; or
2. By fax transmission: (916) 440-5747; or
3. By email to regulations@cdph.ca.gov (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier “DPH-07-007” in the subject line to facilitate timely identification and review of the comment).

³The copy of this decision cannot be further identified, because of the restrictions imposed pursuant to Rev. & Tax. Code section 43651, which states that:

“[i]t shall be unlawful for the board, the department, or any person having administrative duty under this part to make known, in any manner whatever, the business affairs, operations, or any other information pertaining to a taxpayer which is submitted to the board in a report or return required by this part. . . .”

As a result, the copy of that decision included in the rule-making file, has been redacted to remove the identity of the fee payer, and other account and dollar information that cannot by law be disclosed.

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

INQUIRIES

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Tim Ford, of Office of Legal Services, at (916) 440-7822.

All other inquiries concerning the action described in this notice may be directed to Barbara Gallaway, of the Office of Regulations and Hearings, at (916) 440-7689, or to the designated backup contact person, Miko Sawamura, at (916) 440-7690.

CONTACTS

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH-07-007.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations and Hearings, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rule-making file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations and Hearings.

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation, Regulations, Proposed.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7695 (or California Relay at 711/1-800-735-2929), or email regulations@cdph.ca.gov, or write to the Office of Regulations and Hearings at the address noted above. Upon specific request, these documents will be made avail-

able in Braille, large print, and audiocassette or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations and Hearings at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: None.
- B. Fiscal Effect on State Government: None.
- C. Fiscal Effect on Federal Funding of State Programs: None.
- D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

DETERMINATIONS

The Department has determined that the proposed regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has made an initial determination that the proposed regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the proposed regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would affect small business.

The Department has determined that the regulations will have no impact on housing costs.

ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Other regulation changes may be scheduled for hearing at the same time appointed for public hearing on the action described in this notice. An agenda for the public hearing will be posted at the time and place of hearing designated above.

For individuals with disabilities, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of public hearing materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an alternate format, please call or write: Miko Sawamura, Office of Regulations and Hearings, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377, voice (916) 440-7690 and/or California Relay 711/1-800-735-2929. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

TITLE 18. BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board), pursuant to the authority vested in it by section 15606, subdivision (a), of the Government Code, proposes to amend section 1602.5, *Reporting Methods for Grocers*, in Title 18 of the California Code of Regulations, relating to the use of electronic scanning systems. A public hearing on the proposed regulations will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on Wednesday, October 1, 2008. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by October 1, 2008.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Sales and Use Tax Regulation 1602.5 provides that in preparing sales and use tax returns, grocers may use any method of determining the amount of their sales of exempt food products which does not result in an overstatement of the exemption. Grocers are required to be prepared to demonstrate by records, which can be verified by audit, that the method used properly reflected their sales of exempt food products. The electronic scanning systems method is one of the prescribed methods grocers may use for reporting the tax. At the time the regulation was updated in 1995, the use of scanners was a relatively new technology and there was a need to standardize and define what type of documentation was necessary to support reported taxable and nontaxable sales and verify the accuracy of the reporting system. Consequently, language was added to the regulation requiring grocers who were contemplating use of an electronic scanning system as a reporting method to notify the Board and submit a general outline of the proposed procedures for review and approval prior to using this reporting method.

Staff has now determined that the review and approval procedures are obsolete and proposes to amend Regulation 1602.5 by eliminating the requirement that grocers get Board approval before using an electronic scanning method to report the tax. Staff further recommends deleting the language urging grocers to seek Board approval prior to using the modified purchase ratio and the cost plus markup methods of reporting the tax.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendments do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendments and regulations will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5, subdivision (a)(8), the Board of Equalization makes an initial determination that the adoption of the amendments to Regulations 1602.5 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendments to the regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

COST IMPACT ON PRIVATE PERSON OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Regulations 1602.5 and the proposed changes have no comparable federal regulations.

AUTHORITY

Sections 7051 and 7051.5, Revenue and Taxation Code

REFERENCE

Sections 6359 and 6373, Revenue and Taxation Code

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Mr. Tim Treichett (916) 324-2640, at 450 N Street, Sacramento, CA 95814, e-mail Tim.Treichett@boe.ca.gov or MIC:82, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Richard Bennion, Regulations Coordinator, telephone (916) 445-2130, fax (916) 324-3984, e-mail Richard.Bennion@boe.ca.gov or by mail at State Board of Equalization, Attn Richard Bennion, MIC:81, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

The Board determined that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored and strikeout version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's Web site <http://www.boe.ca.gov>.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's Web site following its public hearing of the proposed regulation. It will also be available for public inspection at 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Mr. Bennion. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

**TITLE 22. EMPLOYMENT
DEVELOPMENT DEPARTMENT**

August 8, 2008

**Amendment of Title 22, California
Code of Regulations
Section 2706-1**

**FILING, DETERMINATION, AND PAYMENT
OF DISABILITY INSURANCE CLAIMS**

Notice of Proposed Rulemaking

The Employment Development Department (Department) proposes to amend California Code of Regulations (CCR), title 22, section 2706-1 to establish the required elements and definitions of claims related to filing a first or continued claim for Disability Insurance (DI) benefits as well as utilize the existing relevant criteria of section 2706-2, relating to Family Temporary Disability Insurance (FTDI) benefits.

The Department will adopt these regulations after considering all comments, objections, or recommendations regarding the proposed regulatory action.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The State Disability Insurance (SDI) program was established in 1946 to provide a partial wage replacement benefit to eligible workers in California who were unable to work due to a non-work related illness or injury. Senate Bill 1661 (Chapter 901, Statutes 2002) added the FTDI benefit to the California Unemployment Insurance Code (Code). The FTDI benefit, otherwise known as Paid Family Leave (PFL), expanded the scope of SDI to provide a partial wage replacement benefit to eligible workers who take time off work to care for a seriously ill child, spouse, parent, registered domestic partner, or to bond with a new minor child.

Section 2701.5 of the Code requires the Department to issue the initial payment for SDI benefits (including FTDI benefits) to an eligible claimant within 14 days of receipt of his or her properly completed first claim. Section 2706-2 of the CCR specifies the required elements for a completed first or continued claim for FTDI benefits. Although FTDI benefits are a subset of DI benefits, section 2706-1 of the CCR does not include a similar listing of the required elements for a properly completed claim for DI benefits related to a claimant's own illness or injury.

Code sections 305 and 306 allow the Department to adopt, amend, or repeal regulations for the administration of functions of the Department. Under Code sections 2625, 2706, 2627, 2701.5 and 2708, SDI benefits are payable from the Disability Fund to individuals who file claims for benefits in accordance with authorized regulations and who are eligible to receive such benefit payments. However, the Code and the Department's existing regulations do not specify what constitute a properly completed claim form for DI benefits. Furthermore, any required elements and definitions of claims for DI benefits should be consistent with the existing relevant criteria of section 2706-2, relating to FTDI benefits, which is a subset of DI benefits.

Section 2706-1 of the CCR specifies that an individual who has been unemployed, continuously disabled for eight consecutive days and examined or under a care of a physician or practitioner, may file for DI benefits.

The proposed regulation amendment is necessary to establish the required elements and definitions of claims related to filing a first or continued claim for DI benefits as well as utilize the existing relevant criteria of section 2706-2, relating to FTDI benefits, which is a subset of DI benefits. Specifically, this section would be amended to:

- Define the terms "first claim" and "properly completed first or continued claim".
- Provide that an individual meeting certain conditions (e.g., suffer from a qualifying disability, unable to perform regular and customary work, suffer a wage loss) would satisfy basic claim filing requirements for DI benefits.
- Delineate all of the elements required for a properly completed first or continued claim form necessary for the Department to determine a claimant's eligibility for DI benefits.

The proposed amendments will address the above three bulleted items.

Authority and Reference:

Authority: Sections 305, 306 and 2602, Unemployment Insurance Code.

Reference: Sections 2608, 2626, 2701.5 and 2706, Unemployment Insurance Code.

Fiscal Impact:

Anticipated costs or savings in federal funding to the State: None

Anticipated costs or savings to any State Agency: None

Anticipated costs or savings to any local agency or school district: None

Significant statewide adverse economic impact: The Department does not anticipate this regulatory action will result in any costs to the federal government, to State government, to local county governments, to pri-

vate individuals, or to businesses and small businesses. Thus, no costs were shown on the Economic and Fiscal Impact Statement.

The Department has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states because the proposed amendments are intended to clarify existing statute and establish criteria for individuals filing a claim for DI benefits. The Department has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing business within the State of California; or the expansion of businesses currently doing business within the State of California.

The cost impact on representative persons or businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Anticipated impact on housing costs: The proposed regulatory action will have no effect on housing costs.

Anticipated nondiscretionary costs or savings imposed upon local agencies: None

Small Business Impact:

The proposed amendments in and of themselves will have no effect on small businesses because they are intended to establish eligibility requirements for individuals and do not impose any new mandates on small businesses. They do not require that small businesses take any action or refrain from taking any action in regards to conducting business.

Local Mandate Determination:

The Department has determined that these proposed amendments will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with section 17500), Division 4 of the Government Code.

Consideration of Alternatives:

In accordance with section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

Written Comment Period:

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to Laura Colozzi via U.S. mail, e-mail, or fax (see U.S. mail and e-mail addresses and fax number indicated below). **E-mail comments should include true name and mailing address of the commentor. Written comments submitted via U.S. mail, e-mail, or fax, must be received by the Department no later than September 22, 2008, at 5 p.m.** Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period.

Contact Persons

Inquiries or comments should be directed to:

(Mailing address) Laura Colozzi, Legal Analyst
Employment Development
Department
P.O. Box 826880
Legal Office, MIC 53
Sacramento, CA 94280-0001

(Hand delivery) Laura Colozzi, Legal Analyst
Employment Development
Department
800 Capitol Mall, Room 5020
Legal Office, MIC 53
Sacramento, CA 95814

Telephone No.: (916) 654-7712
Fax No.: (916) 654-9069
E-Mail Address: eddlegal@edd.ca.gov

Note: In the event Laura is unavailable, inquiries should be directed to the following backup contact persons at the same address as noted above:

Name: Penny Ayers, Legal Analyst
Telephone No.: (916) 654-8410

Questions regarding the substance of the proposed regulatory action should be directed to:

Name: Deanna Asuncion, Staff Counsel
Telephone No.: (916) 654-8410

Internet Website Access

The Department has posted on its internet website <http://www.edd.ca.gov> materials regarding the proposed regulatory action. Select "Proposed EDD Regulations."

Public Hearing:

No public hearing has been scheduled on the proposed action. However, if any person desires to submit oral comments, the Department will schedule a public hearing upon that person's written request. **Such request must be received no later than 15 days prior to the close of the written comment period which is 5**

p.m. on September 22, 2008. A request for hearing can be made by contacting the persons noted above.

Modification of Proposed Action:

If the Department makes any additional changes based on public testimony, those changes (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted. Copies of any additional changes regarding the proposed regulatory action will be mailed to all persons who testified or submitted written comments at the public hearing (if one is scheduled); whose comments were received by the agency during the public comment period; and who requested notification from the agency of the availability of such changes.

Final Statement of Reasons:

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

Further Information:

The Department has prepared and has available for review, upon request, the text of the proposed regulations discussed in this notice, written in plain English; a statement of reasons setting forth the purpose of the proposed regulations; and the information upon which the Department relied in proposing the regulations. (If you received this notice by mail, a copy of the text of the proposed regulations and the statement of reasons were enclosed.) To obtain a copy, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review. For inquiries regarding the rulemaking file or the regulations' process, contact the persons noted above.

**TITLE 22. EMPLOYMENT
DEVELOPMENT DEPARTMENT**

August 8, 2008

**Amendment of Title 22, California
Code of Regulations
Section 3254(i)-2**

**VOLUNTARY PLANS — RISKS ADVERSE TO
THE DISABILITY FUND**

Notice of Proposed Rulemaking

The Employment Development Department (Department) proposes to amend California Code of Regu-

lations (CCR), title 22, section 3254(i)-2 to enhance and update the voluntary plans (VP) Standards for Approval and authorize the Department to utilize viable sources of information, as an alternative to incurring cost prohibitive programming and procedural changes. This will result in a more efficient administration of the VP program.

The Department will adopt these regulations after considering all comments, objections, or recommendations regarding the proposed regulatory action.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The Department extends approval to employers to operate VPs for short-term disability insurance coverage, in lieu of State Disability Insurance (SDI) coverage, as set forth in Division 1, Part 2, Chapter 6, of the California Unemployment Insurance Code (UI) and CCR, title 22.

Existing statute and regulations allow a VP or a group of VPs to be underwritten by an admitted disability insurer under the condition that approval is only given if it would not result in a substantial selection of risks adverse to the Disability Fund. Existing regulations identify female claimants, claimants age 50 and over, and claimants earning less than \$3,600 in annual wages as less favorable risks in terms of disability insurance. Each year the Department determines the percentage of benefits paid to such claimants. Every insurer's experience with these groups is then compared to the total claims experience of the employed workers under the State plan and all VPs. The age, gender and wage distribution criteria were established to ensure the solvency of the Disability Fund.

Under Insurance Code Section 10270.2 (f), only the Department of Insurance (DOI) has authority to approve a VP insurance policy offered by an admitted disability insurer. It is only after the policy is approved that the Department can review the application from an admitted disability insurer to administer a VP. To ensure a more equitable distribution of risks between the State and private insurers, the Department requires at the time of plan approval that the employees to be covered by the plan include a specified percentage of females, employees age 50 and over, and employees earning \$3,600 or less in annual wages. In order to retain approval status, an insurer's claims experience for the groups measured must be within five percent of the total experience. If an insurer's experience is five percent or more below the total experience in any of the groups measured, a substantial selection of risks is indicated and the director shall terminate approval of plans which have been measured for claims experience.

In order to assist the Department in determining whether to revise the existing eligibility criteria for private short-term disability insurance with respect to age, gender and wages, an actuarial study was conducted. The study relied primarily on contribution and benefit payment information provided by the Department as well as public information available from the United States Census based on data from 2002 through 2004. (See *California EDD: Private Insurance Voluntary Plans Analysis of Employee Demographic Criteria*, December 2007.)

The results of the study found that the existing eligibility criteria based on age and gender continue to be acceptable and reasonable standards and that no changes are required as to those criteria. However, the study determined that the existing annual wage criterion of \$3,600 is grossly inadequate and requires amendments to be made to the governing regulations. The study recommended that the Department establish an annual wage criterion of approximately \$30,000 (based on 2002 through 2004 data) to be commensurate with current economic standards.

The study utilized statewide wage data, as well as Department data on the Weekly Benefit Amount and the Maximum Benefit Amount to determine the income benefit ratio. Based on a thorough analysis of the wage and Disability Insurance (DI) claims data, the study determined that \$30,000 is the appropriate amount for 2004 at which private insurers could still participate in the DI insurance market without disadvantaging the Disability Fund. Specifically, \$30,000 is the minimum wage amount at which the benefit ratios for 2002 through 2004 were the closest to 100% (1.0) and the relativities for 2002 through 2004 were the closest to 1.0. Establishing the eligibility criteria at the point where the population has a benefit ratio of 1.0 or 100% (where the benefits paid roughly equals the amount of contributions paid) ensures that private insurers do not only cover a portion of the population that has a lower than average contribution ratio. Furthermore, establishing the eligibility criteria at the point where the population has a relativity of 1.0 (where the calculated benefit ratio roughly equals the average benefit ratio) ensures that private insurers do not only cover a portion of the population that has a lower than average contribution ratio.

However, the study also determined that, due to wage inflation, the appropriate cut-off point for the minimum wage amount will change and become outdated over time. In order to address this wage fluctuation in the future, the report recommends basing the wage distribution criteria as a percentage of the average weekly wage, as determined by the U.S. Department of Labor.

Since the \$30,000 wage threshold is roughly 70% of the 2004 average weekly wage, the report recommends basing future wage thresholds on 70% of each year's average weekly wage.

Furthermore, over the past decade, the Department has experienced an array of database migrations resulting in age and gender information that was previously captured for VP reporting to no longer be readily available or accessible. This data is critical for determining the percentages of females and employees age 50 and older in subject employment for the purpose of establishing standards for approval with respect to gender and age. This leaves the Department with the option of either implementing programming and procedural changes to obtain such data, which has significant fiscal implications, or utilizing alternative sources of information readily available from the Bureau of Labor Statistics of the United States Department of Labor. The Department proposes to revise the regulation to incorporate the use of such alternative sources of information.

Under UI Code sections 305 and 306, the Director of the Department is authorized to adopt, amend, or repeal regulations for the administration of the functions of the Department and the enforcement of the Director's functions under the UI Code. Under UI Code sections 3251, 3253, 3254, and 3255, a qualified employer is able to provide Disability Insurance and Family Temporary Disability Insurance benefits to employees electing coverage under the employer's VP.

The following proposed amendments to CCR, title 22, section 3254(i)-2 will:

- Update the wage distribution criteria related to the standards for approval for a voluntary plan or a group of voluntary plans underwritten by an admitted disability insurer;
- Establish the wage distribution criteria as indexed for inflation, rather than being fixed, and allow for adjustments to be made by adopting a method based on the state average weekly wage; and
- Change the date by which the Director is required to establish the standards for approval with respect to gender, age and wage distribution from July 1 of each fiscal year to October 31 of each calendar year.
- Substitute the use of alternative sources of data available from the Bureau of Labor Statistics of the United States Department of Labor to establish the standards for approval with respect to gender and age.

The proposed amendments will address the above four bulleted items.

Authority and Reference:

Authority: Sections 305, 306, and 2602, Unemployment Insurance Code. Reference: Sections 3254 and 3262, Unemployment Insurance Code.

Fiscal Impact:

Anticipated costs or savings in federal funding to the State: None

Anticipated costs or savings to any State Agency: None

Anticipated costs or savings to any local agency or school district: None

Significant statewide adverse economic impact: The Department does not anticipate the proposed amendments will result in any costs to the federal government, to State government, to local county governments, to private individuals, or to businesses or small businesses. Thus, no costs were shown on the Economic and Fiscal Impact Statement.

The Department has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The proposed regulation amendments would enhance and update the VP Standards for Approval and authorize the Department to utilize viable sources of information, as an alternative to incurring cost prohibitive programming and procedural changes, resulting in a more efficient administration of the VP program with no adverse impact on VPs administered by an admitted disability insurer. The Department has determined that the proposed amendments will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.

The cost impact on representative persons or businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Anticipated impact on housing costs: The proposed amendments will have no effect on housing costs.

Anticipated nondiscretionary costs or savings imposed upon local agencies: None

Small Business Impact:

The Department has determined that the proposed amendments will have no effect on small businesses because the proposed amendments would enhance and update the VP Standards for Approval and authorize the Department to utilize viable sources of information, as an alternative to incurring cost prohibitive programming and procedural changes, resulting in a more effi-

cient administration of the VP program with no adverse impact on small businesses.

Local Mandate Determination:

The Department has determined that the proposed amendments will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with section 17500), Division 4 of the Government Code.

Consideration of Alternatives:

In accordance with section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

Written Comment Period:

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to Laura Colozzi via U.S. mail, e-mail, or fax (see U.S. mail and e-mail address and fax number indicated below). **E-mail comments should include true name and mailing address of the commentor. Written comments submitted via U.S. mail, e-mail, or fax, must be received by the Department no later than September 22, 2008, at 5 p.m.** Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period.

Contact Persons

Inquiries or comments should be directed to:

(Mailing address) Laura Colozzi, Legal Analyst
Employment Development
Department
P. O. Box 826880
Legal Office, MIC 53
Sacramento, CA 94280-0001

(Hand delivery) Laura Colozzi, Legal Analyst
Employment Development
Department
800 Capitol Mall, Room 5020
Legal Office, MIC 53
Sacramento, CA 95814

Telephone No.: (916) 654-7712
Fax No.: (916) 654-9069
E-Mail Address: eddlegal@edd.ca.gov

Note: In the event Laura is unavailable, inquiries should be directed to the following backup contact persons at the same address as noted above:

Name: Penny Ayers, Legal Analyst
Telephone No.: (916) 654-8410

Questions regarding the substance of the proposed regulatory action should be directed to:

Name: Deanna Asuncion, Staff Counsel
Telephone No.: (916) 654-8410

Internet Website Access

The Department has posted on its internet website <http://www.edd.ca.gov> materials regarding the proposed regulatory action. Select "Proposed Regulations."

Public Hearing:

No public hearing has been scheduled on the proposed action. However, if any person desires to submit oral comments, the Department will schedule a public hearing upon that person's written request. **Such request must be received no later than 15 days prior to the close of the written comment period which is 5 p.m. on September 22, 2008.** A request for hearing can be made by contacting the persons noted above.

Modification of Proposed Action:

If the Department makes any additional changes based on public testimony, those changes (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted. Copies of any additional changes regarding the proposed regulatory action will be mailed to all persons who testified or submitted written comments at the public hearing (if one is scheduled); whose comments were received by the agency during the public comment period; and who requested notification from the agency of the availability of such changes.

Final Statement of Reasons:

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

Further Information:

The Department has prepared and has available for review, upon request, the text of the proposed regulations discussed in this notice, written in plain English; a statement of reasons setting forth the purpose of the proposed regulations; and the information upon which the Department relied in proposing the regulations. (If you received this notice by mail, a copy of the text of the proposed regulations and the statement of reasons were enclosed.) To obtain a copy, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review. For inquiries regarding the rulemaking file or the regulations' process, contact the persons noted above.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Department of Fish and Game — Public Interest Notice

For Publication August 8, 2008
CESA CONSISTENCY DETERMINATION
REQUEST FOR
Meridian Farms Water Company
Fish Screen Project
Sutter County
2080-2008-018-02

The Department of Fish and Game (DFG) received a notice on July 23, 2008 that the Meridian Farms Water Company (MFWC) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project consists of the construction of a new diversion and pumping plant, pipelines, and canal modifications in Sutter County, CA (Project). The new diversion will be screened to reduce entrainment of fish in the pumps. Project activities are likely to result in temporary impacts to approximately 1.68 acres of upland habitat suitable for the giant garter snake (*Thamnophis gigas*), including 1.67 acres of upland habitat and 0.01 acres of aquatic habitat. MFWC will restore the habitat to pre-project conditions within one season.

The U.S. Fish and Wildlife Service (Service) issued a "no jeopardy" federal biological opinion (81420-2008-F-1068-1)(BO) and incidental take statement (ITS) to the U.S. Bureau of Reclamation (BOR) on May 27, 2008 which considers Project impacts on the federally and state threatened giant garter snake and authorizes incidental take of the species. Pursuant to California Fish and Game Code Section 2080.1, MFWC is requesting a determination that the BO and ITS are consistent with CESA for purposes of the proposed Project. If DFG determines the BO and ITS are consistent with CESA for the proposed Project, MFWC will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

DEPARTMENT OF FISH AND GAME

BACKGROUND

Department of Fish and Game —
Public Interest Notice
 For Publication August 8, 2008
 CESA CONSISTENCY DETERMINATION FOR
 Replacement of Four Bridges on
 State Route 169 Project
 Humboldt County
 2080–2008–019–01

The California Department of Fish and Game (DFG) received notice on July 24, 2008 that the California Department of Transportation (Caltrans) proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project consists of replacing the Cappell Creek, Mawah Creek, Rube Ranch Creek, and Martins Ferry School Creek bridges on State Route 169 in Humboldt County. The activities will include in-water work which will impact listed fish species and will necessitate removal of riparian vegetation.

The National Marine Fisheries Service (NMFS), on July 7, 2008, issued to the Federal Highway Administration (FHWA), a no jeopardy federal biological opinion (151422SWR2008AR00036)(BO) and incidental take statement (ITS) which considers Project impacts on the Federally and State threatened Southern Oregon/Northern California Coast (SONCC) Coho Salmon (*Oncorhynchus kisutch*) and authorizes incidental take of the species.

Pursuant to California Fish and Game Code Section 2080.1, Caltrans is requesting a determination that the BO and ITS are consistent with CESA. If DFG determines the BO and ITS are consistent with CESA for the proposed Project, Caltrans will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

DEPARTMENT OF FISH AND GAME

**CALIFORNIA DEPARTMENT OF
 FISH AND GAME
 CONSISTENCY DETERMINATION
 Fish and Game Code Section 2080.1
 Tracking Number 2080–2008–015–03**

PROJECT: Zone 7 Altamont Water Treatment Plant and Pipeline Project

LOCATION: In and Around the City of Livermore in Eastern Alameda County

NOTIFIER: Zone 7 Water Agency

The Zone 7 Altamont Water Treatment Plant and Pipeline Project (the Project) includes construction of a water treatment plant, raw water delivery facilities (a pipeline and pumping station), a treated water pipeline and improvements to Dyer Road. The water treatment plant and raw water delivery facilities will be located in annual grassland adjacent to Dyer Road, northeast of the City of Livermore. The treated water pipeline will be located within Alameda County and the City of Livermore and will traverse a variety of settings, ranging from rural and residential areas to urban commercial and industrial sites. Most of the treated water pipeline will be located within roadways and various existing rights-of-way held by Alameda County, the City of Livermore, and California Department of Transportation. Portions of the treated water pipeline will be located on private land over which Zone 7 Water Agency (Zone 7) will obtain easements.

Portions of the construction area east of Vasco Road and entirely east of Laughlin Road are considered suitable habitat for the San Joaquin kit fox (*Vulpes macrotis mutica*; “kit fox”). The service area for the Project includes Dougherty Valley, Dublin San Ramon Services District, Pleasanton and Livermore. Most of the undeveloped grasslands in the service area contain suitable habitat for kit fox. San Joaquin kit fox is listed as an endangered species under the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 *et seq.*) and as a threatened species under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*). Non-native grasslands provide suitable contiguous denning, dispersal and foraging habitat for the kit fox. There are numerous historical and current occurrences in the vicinity of the Project and service area recorded in the California Natural Diversity Database (CNDDDB)(DFG 2007). Based upon this, and the biology and ecology of kit fox, the U.S. Fish and Wildlife Service (USFWS) has concluded kit fox is reasonably certain to occur within the construction area. The construction of the proposed water treatment plant and pipeline will result in temporary disturbance of approximately 24.6 acres of upland habitat, permanent loss of approximately 26.8 acres of upland habitat, and indirect effects to areas outside the Project boundaries. Construction, operation, and maintenance of the proposed Project could result in mortality, injury, and harassment of kit fox and result in the permanent or temporary loss or degradation of kit fox habitat. Disturbance and loss of habitat within the construction area could indirectly affect kit fox by reducing or eliminating abundance of kit fox prey species. The construction activities, hauling of equipment and material along the right-of-way, human presence, noise, and lack of dens for shelter are likely to impede

travel and movement of kit foxes through the Project area. Consequently, the construction of the Altamont Water Treatment Plant and pipelines could hinder kit fox interaction with the Los Banos population south of the Project area. Development and operation of the proposed Project could result in mortality or injury to kit foxes.

Because the Project has the potential to take a species listed under ESA, the U.S. Army Corps of Engineers (ACOE), on behalf of Zone 7, consulted with the USFWS under Section 7 of the ESA. On February 28, 2008, USFWS issued a Biological Opinion (Ref. No. 81420-2006-F-0004)(BO) and incidental take statement (ITS) which describe the Project, including conservation measures developed to minimize impacts to kit fox, and set forth measures to mitigate any remaining impacts to kit fox and its habitat. On June 13, 2008, the BO was amended (Ref. No. 81420-2006-F-0004-2) to include additional measures regarding mitigation for impacts to kit fox. On June 18, 2008, the Director of the Department of Fish and Game (DFG) received correspondence from Rich Walter of Jones and Stokes, on behalf of Zone 7, requesting a determination pursuant to section 2080.1 of the Fish and Game Code that the amended BO, including its ITS, is consistent with CESA.

DETERMINATION

DFG has determined that the BO as amended on June 13, 2008, including its ITS, is consistent with CESA because the mitigation measures therein meet the conditions set forth in Fish and Game Code section 2081, subparagraphs (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, DFG finds that the take of kit fox will be incidental to an otherwise lawful activity (i.e., construction of a water treatment plant, raw water delivery facilities (a pipeline and pumping station), a treated water pipeline and improvements to Dyer Road), the mitigation measures identified in the BO will minimize and fully mitigate the impacts of the authorized take of kit fox, and implementation of the Project will not jeopardize the continued existence of the species. The mitigation measures in the BO and the amended BO include, but are not limited to, the following:

Habitat Compensation Measures

- Zone 7 will compensate for impacts to the kit fox and its habitat through conservation and management in perpetuity of the Walker Ranch or an alternate area, approved by DFG and the USFWS, of at least 113 acres of suitable kit fox

habitat. Zone 7 will provide draft conservation easement language to DFG and USFWS for approval prior to Project construction, and will execute the final conservation easement upon completion of land acquisition. The easement will be held by DFG or a DFG- and USFWS-approved entity with DFG named as a third-party beneficiary.

- Zone 7 will prepare a long-term management plan for the management and monitoring of the compensation habitat in perpetuity. Upon DFG and USFWS approval of the management plan, Zone 7 will fund an endowment in an amount sufficient to generate annual revenue to cover the costs of activities described in the management plan. The endowment will be calculated using a Property Analysis Record (PAR) or equivalent instrument. Zone 7 will also fund an endowment for conservation easement monitoring.
- Prior to Project impacts, Zone 7 will ensure funding for performance of all required mitigation by providing a funding assurance in an amount approved by USFWS and DFG. The funding assurance will be in an amount sufficient to secure land acquisition (based on the value of a property of equivalent value to the proposed mitigation area) and land management and conservation easement monitoring endowments (currently estimated based on a draft management plan). Zone 7 will be responsible to fully fund all actual costs of the endowments based on the amounts approved in the final management plan.
- Land acquisition, approval of the final management plan, establishment of the land management endowment and conservation easement monitoring endowment, and recordation of the final conservation easement shall occur and endowments shall be fully funded prior to the construction of the County Reach of the Altamont Pipeline Project, prior to the construction of the Altamont Water Treatment Plant, and prior to the service date of water delivery.

Avoidance, Minimization, and Monitoring Measures

- No more than 30 days before the initiation of Project activities in areas that could affect kit fox, a USFWS-approved biological monitor will conduct surveys for kit fox and dens. Den sites will be classified in one of four USFWS den status categories, mapped, flagged, and avoided in accordance with the prescribed exclusion zones described on page 31 of the BO.

- A USFWS–approved biological monitor will be present at the construction area during ground–disturbing activities and vegetation removal in suitable habitat for kit fox. The biological monitor will thoroughly inspect open trenches for the presence of kit fox at the beginning of each workday. If a kit fox is found, the biologist will immediately contact USFWS for direction on how to proceed. If a kit fox is in danger of being injured or killed, the monitor will have the authority to halt construction activities, through the Resident Engineer, until the species has been removed from the construction area and released into nearby suitable habitat.
- Before the start of construction and after a perimeter exclusion fence has been constructed, ground squirrel burrows within the boundary of the construction sites will be hand excavated and collapsed by, or under the supervision of, a qualified USFWS–approved biologist. If a kit fox is found within the burrow, excavation activities shall stop immediately and the USFWS should be notified and consulted for direction.
- To avoid entrapment of kit foxes, all excavated steep–walled holes or trenches more than two feet deep will be provided with one or more escape ramps, constructed of earth fill or wooden planks, at the end of each workday. If escape ramps cannot be provided, then holes or trenches shall be covered with plywood or similar materials.

Based on this consistency determination, Zone 7 does not need to obtain authorization from DFG under CESA for incidental take of San Joaquin kit fox that occurs in carrying out the Project, provided Zone 7 implements the Project as described in the BO as amended (including the Conservation Measures), and complies with the mitigation measures and other conditions described in the BO and ITS, including the amendment. However, if the Project as described in the BO, including the mitigation measures therein, changes after the date of the BO, or if the USFWS again amends or replaces the BO, Zone 7 will need to obtain from DFG a new consistency determination (in accordance with Fish and Game Code section 2080.1) or a separate incidental take permit (in accordance with Fish and Game Code section 2081).

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

NOTICE TO INTERESTED PARTIES

August 8, 2008

Availability of Hazard Identification Materials for N,N–Dimethylformamide and Announcement of November 5, 2008 Carcinogen Identification Committee Meeting

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986¹ (Proposition 65). The Carcinogen Identification Committee (CIC) of OEHHA's Science Advisory Board advises and assists OEHHA in compiling the list of chemicals known to the State to cause cancer as required by Health and Safety Code section 25249.8. The Committee serves as the State's qualified experts for determining whether a chemical has been clearly shown through scientifically valid testing according to generally accepted principles to cause cancer.

On December 12, 2007, OEHHA requested information relevant to the assessment of the evidence of carcinogenicity for N,N–dimethylformamide, a chemical to

¹Health and Safety Code section 25249.5 et seq.

be considered by the CIC for possible addition to the Proposition 65 list. The 60-day data call-in period ended on February 18, 2008. No information or data were received on N,N-dimethylformamide. OEHHA has prepared the hazard identification materials for N,N-dimethylformamide and announces the availability of the document entitled: "Evidence on the Carcinogenicity of N,N-Dimethylformamide."

Copies of the document is available from the Proposition 65 Implementation Office and may be requested by calling (916) 445-6900, or through the Internet at the following address: <http://www.oehha.ca.gov/>. This notice marks the beginning of a 60-day public comment period. **It is requested, but not required, that written comments and supporting documentation be transmitted via email addressed to coshita@oehha.ca.gov.** Comments may also be delivered in triplicate in person or by courier to:

Cynthia Oshita
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation
P.O. Box 4010
1001 I Street, 19th floor
Sacramento, California 95812-4010
FAX (916) 323-8803

In order to be considered, comments must be post-marked (if sent by mail) or received at OEHHA (if hand-delivered, sent by FAX, or transmitted electronically) by 5:00 p.m. on Tuesday, October 7, 2008.

OEHHA will organize and index the comments received and forward the information to the CIC members prior to the meeting at which the candidate chemical will be considered.

Additional Hazard Identification Materials for other chemicals proposed for review by the CIC will be made available in upcoming notices.

The next meeting of the CIC is scheduled for **Wednesday, November 5, 2008**. The meeting will be held at the Sacramento City Hall, City Council Chamber, 1000 I Street, Sacramento, California. The meeting will begin at 9:00 a.m. and will last until all business is conducted or until 4:00 p.m. The agenda for the meeting will be provided in a future public notice published in advance of the meeting.

OAL REGULATORY DETERMINATION

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATIONS

(Pursuant to Government Code
Section 11340.5 and
Title 1, section 270, of the
California Code of Regulations)

EMPLOYMENT DEVELOPMENT DEPARTMENT

STATE OF CALIFORNIA

OFFICE OF ADMINISTRATIVE LAW

2008 OAL DETERMINATION NO. 15 (OAL FILE # CTU 2008-0108-01)

REQUESTED BY: John K. Riess
CONCERNING: Employment Development
Department — An Agreement
Between the Employment
Development Department and
the California Unemployment
Insurance Appeals Board,
Dealing with Workforce
Investment Act Audit Appeals

Determination Issued Pursuant
to Government Code Section
11340.5.

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether or not an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. Our review is limited to the sole issue of whether the challenged rule meets the definition of a "regulation" as

defined in Government Code section 11342.600¹ and is subject to the Administrative Procedure Act (APA). If a rule meets the definition of a “regulation,” but was not adopted pursuant to the APA and should have been, it is an “underground regulation” as defined in California Code of Regulations, title 1, section 250.² OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

ISSUE

On January 8, 2008, Mr. Riess (Petitioner) submitted a petition to OAL challenging an agreement between the Employment Development Department (Department) and the California Unemployment Insurance Appeals Board (Board) dated March 4, 2005, (Agreement) as an underground regulation issued in violation of Government Code section 11340.5.³ The Agreement requires the Board to conduct audit appeals resulting from audits of subrecipients of funds received from the Workforce Investment Act (WIA)⁴.

DETERMINATION

OAL determines that those provisions of the Agreement which are not contained in state or federal law meet the definition of a “regulation” as defined in section 11342.600 and do not fall within any express APA exemption. They should, therefore, have been adopted pursuant to the APA. Those provisions which restate applicable state or federal law or are the only legally tenable interpretation of the state or federal law need not be adopted pursuant to the APA.

¹ Government Code 11342.600:

“Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

² An underground regulation is defined in title 1, California Code of Regulations, section 250:

“Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

³ Unless otherwise specified code references are to the California Government Code.

⁴ Workforce Investment Act (Pub. L. No. 105–220 (August 7, 1998), 112 Stat. 936)

FACTUAL BACKGROUND

The WIA is a federal program that superseded the Job Training Partnership Act. WIA is designed to benefit job seekers, disabled individuals, laid off workers, youth etc. This program is an effort to improve the quality, productivity and competitiveness of the workforce.⁵ Participating states are required to enter into an agreement between the state and the federal Secretary of Labor. The state is also required to adopt a state plan for the implementation of the WIA. WIA funds are granted to the state. The state then funnels the funds to local boards, or subrecipients, to administer WIA programs.⁶ The WIA requires that the subrecipients⁷ of WIA funds be audited and that the audit findings may be appealed by the subrecipient.⁸

The Agreement between the Department and the Board states that “The [audit appeal] hearing [required by the WIA] shall be conducted in accordance with Chapter 8 (commencing with Section 1951), Part 1, of Division 1 of the Unemployment Insurance Code and the Rules of the Appeals Board.”⁹ The rules of the Board are found in title 22, California Code of Regulations, section 5000 et seq.

The petitioner argues that the Agreement contains specific directions to the Board that are regulatory.

In its response to the petition, the Department asserts that:

- (1) The Agreement is the only legally tenable interpretation of a provision of law and therefore is not subject to the APA;
- (2) The Agreement is a mere restatement of federal and state laws and regulations, including Unemployment Insurance Code section 1951 et seq.;
- (3) The Agreement is between the Department and the Board and therefore does not apply generally and is not an underground regulation; and

⁵ California Employment Development Department. “WIA Overview.” [Online] May 23, 2008.

<http://www.edd.ca.gov/wiarep/wiaind.htm>,

⁶ Workforce Investment Act (Pub. L. No. 105–220 (August 7, 1998), 112 Stat. 936)

⁷ A “subrecipient” is defined in title 20, Code of Federal Regulations (CFR), section 641.142 as a “subgrantee.” A “subgrantee” is defined in the same section as “. . . the legal entity to which a subaward of financial assistance, which may include a subcontract, is made by the grantee (or by a higher tier subgrantee or recipient), and that is accountable to the grantee for the use of the funds provided. . . .” Briefly, the grantee is the state, and the subgrantee or subrecipient, is the local agency that receives WIA funds from the state and administers WIA programs.

⁸ See title 20, CFR, sections 667.410 and 667.500(a)(2).

⁹ Page 2 of the Agreement between the Board and the Department.

- (4) The Agreement is not a regulation subject to the rulemaking requirements of the APA because it is nothing more than the delegation of hearing authority to the Board as required by title 29, Code of Federal Regulations (CFR), section 667.500(a)(2).

The Petitioner submitted a rebuttal to the agency's response to OAL on May 12, 2008. The rebuttal raised no new issues or arguments that were not presented in the original petition.

UNDERGROUND REGULATIONS

Section 11340.5, subdivision (a), prohibits state agencies from issuing a rule unless the rule complies with the APA. It states as follows:

(a) No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in [Government Code] Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of section 11340.5 it creates an underground regulation as defined in title 1, California Code of Regulations (CCR), section 250.

OAL may issue a determination as to whether or not an agency issues, utilizes, enforces, or attempts to enforce a rule that meets the definition of a "regulation" as defined in section 11342.600 and should have been adopted pursuant to the APA. An OAL determination that an agency has issued, utilized, enforced, or attempted to enforce an underground regulation is not enforceable against the agency through any formal administrative means, but it is entitled to "due deference" in any subsequent litigation of the issue pursuant to *Grier v. Kizer* (1990) 219 Cal.App.3d 422, 268 Cal.Rptr. 244.

ANALYSIS

A determination of whether the challenged rule is a "regulation" subject to the APA depends on (1) whether the challenged rule contains a "regulation" within the meaning of section 11342.600, and (2) whether the challenged rule falls within any recognized exemption from APA requirements.

A regulation is defined in section 11342.600 as:

. . . every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

In *Tidewater Marine Western, Inc. v. Victoria Bradshaw* (1996) 14 Cal.4th 557, 571, the California Supreme Court found that:

A regulation subject to the Administrative Procedure Act (APA) (Gov. Code, § 11340 et seq.) has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency's procedure (Gov. Code, § 11342, subd. (g)).

The first element of a regulation is whether the rule applies generally. The Agreement contains directions for hearings based on audit reports or other reports disallowing costs that are applicable to all subrecipients receiving WIA funds. As *Tidewater* pointed out, a rule need not apply to all persons in the state of California. It is sufficient if the rule applies to a clearly defined class of persons or situations. The Agreement includes requirements that subrecipients of WIA funds must follow if they want to appeal an audit decision. Although the Agreement is between the Department and the Board, the requirements in the Agreement also apply to subrecipients. Subrecipients are a clearly defined class of persons. The first element is, therefore, met.

The second element is that the rule must implement, interpret or make specific the law enforced or administered by the agency, or govern the agency's procedure. The WIA is created in federal law.¹⁰ The WIA requires that states wishing to receive federal funding must adopt a state plan approved by the Secretary of Labor.¹¹ California's state plan is titled "California's Strategic Two-Year Plan For Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act, As Revised for the Period of July 1, 2007 — June 30, 2009" (state plan) adopted by the Governor. The state plan establishes the state Workforce Investment Board (WIB) to assist the

¹⁰ Workforce Investment Act (Pub. L. No. 105-220 (August 7, 1998), 112 Stat. 936)

¹¹ Workforce Investment Act (Pub. L. No. 105-220 section 112 (August 7, 1998), 112 Stat. 936)

Governor in developing the policies required by the WIA. Once the policies are adopted by the Governor and the WIB, the Department is required by the state plan to “implement policy.”¹²

The state plan continues:

Federal laws are normally implemented in California through enabling legislation. State enabling legislation assigns authority for developing State regulations. The State elected to implement the WIA, however, through an Executive Order issued by the Governor. As a result, California has not developed and implemented its own regulations for the WIA, but follows federal law and regulation. (*Id.* at p. 64)

In the usual case of similar federal grant programs which require a state plan, the responsibilities of the various state agencies are established in statute.¹³ In the case of the WIA, however, the state plan specifically states that there is no enabling legislation. The state plan establishes the Department as the administrative and enforcement agency for purposes of the WIA. The federal law through the state plan, then, is the law enforced or administered by the Department in the issuance of the Agreement.

As noted above, the WIA requires that the subrecipients of WIA funds be audited and that the audit findings may be appealed by the subrecipient. Title 20, CFR, section 667.500(a)(2) requires the state to use “. . . the audit resolution, debt collection and appeal procedures that it uses for other Federal grant programs.” The Agreement states that “The [audit appeal] hearing shall be conducted in accordance with Chapter 8 (commencing with Section 1951), Part 1, of Division 1 of the Unemployment Insurance Code and the Rules of the Appeals Board.”¹⁴ The rules of the Board are found in title 22, California Code of Regulations, section 5000 et seq.

The Agreement, however, also contains provisions which are not contained in state or federal law. These examples are not intended to be an exhaustive list of all provisions in the Agreement that meet the definition of “regulation”:

- The [Administrative Law Judge (ALJ)] may order a prehearing conference at which the

representatives of the Director and Subrecipient shall be prepared to discuss the matter under appeal and to make stipulations or admissions where appropriate. The parties shall confer in person or by correspondence before the date assigned for this conference to reach agreement upon as many matters as possible. They shall prepare and submit to the ALJ at or before the conference a joint written statement of the factual and legal contentions remaining in dispute.

- Within 90 days after the record is closed, the ALJ shall prepare a proposed written decision for the Director.
- The Director shall affirm, reverse, or modify the determination of the ALJ

The Agreement, in addition to enforcing and administering the WIA and the state plan, contains provisions which govern the Department’s procedures. For example, the requirement that the Director of the Department mail to the Board’s Chief Administrative Law Judge the audit report, the protest or appeal and any relevant correspondence establish the Department’s procedure for processing audit appeals, thereby implementing the state plan. Therefore, the second element of *Tidewater* is met.

The Agreement, therefore, meets the definition of a regulation in Government Code section 11342.600.

The final issue to examine is whether the Agreement falls within an exemption from the APA. Exemptions from the APA can be general exemptions that apply to all state rulemaking agencies.¹⁵ Exemptions may also be specific to a particular rulemaking agency or a specific program.¹⁶ In all cases, an exemption from the procedural requirements established in the APA must be expressly stated in statute; pursuant to section 11346, the procedures established in the APA “shall not be superseded or modified by any subsequent legislation except to the extent that the legislation shall do so expressly.”

As noted above, the state plan indicates that the state has elected to follow federal law and federal regulation. No express exemption has been established by state statute.

In addition, the state plan states:

The State elected to implement the WIA, however, through an Executive Order issued by the Governor. As a result, California has not

¹² California Employment Development Department. “California’s Strategic Two–Year Plan For Title I of the Workforce Investment Act of 1998 and the Wagner–Peyser Act, As Revised for the Period of July 1, 2007 — June 30, 2009.” [Online] 26 June 2008 p. 13 http://www.calwia.org/doc_files/Strategic%20Two–Year%20Plan%2007–09.pdf.

¹³ See, for example, the Medi–Cal program, Welfare and Institutions Code section 14000.03 and following.

¹⁴ Page 2 of the Agreement between the Board and the Department.

¹⁵ See Government Code section 11340.9.

¹⁶ For example, Penal Code section 5058.1 that exempts pilot programs within prisons and Education Code section 89030 that exempts rules and regulations adopted by California State University trustees from compliance with the APA.

developed and implemented its own regulations for the WIA, but follows federal law and regulation.¹⁷

This section of the state plan specifically states that California will not adopt implementing regulations but will follow federal law and regulation. This cannot be construed as an exemption from the APA because it is not an express statutory exemption.¹⁸ Rather it is a requirement that only federal law and regulation be used to implement the WIA.

We find no express exemptions from the APA that would apply to the Agreement. We do note, however, that some sections of the Agreement are restatements of state or federal law. A restatement of law is not an exemption from the APA; rather, it repeats the law and does not further implement, interpret or make specific any provision of law. For example, a provision of the Agreement states:

Prior to the issuance of the proposed decision, the subrecipient may withdraw its protest or appeal.

This is a restatement of title 22, California Code of Regulations, section 5050. This section is part of the Board audit appeal procedures which are made applicable to WIA audit appeals pursuant to title 20, CFR, section 667.500(a)(2) and the Agreement.

DEPARTMENT'S RESPONSE

In its response, the Department argues that the Agreement does not meet the definition of a regulation or, alternatively, is exempt from the APA for various reasons. We agree in part and disagree in part with the Department's arguments for the reasons discussed below.

1. The Agreement is the only legally tenable interpretation of a provision of law and therefore is not subject to the APA.

The Department, in their first argument, asserts that the Agreement is exempt from the rulemaking requirements of the APA because it is the only legally tenable interpretation of a provision of law. Section 11340.9, subdivision (f), states that the APA shall not apply to a "regulation that embodies the only legally tenable interpretation of a provision of law."

In its discussion of the "only legally tenable" exemption, the California Supreme Court in *Morning Star*¹⁹, stated:

. . . the exception for the lone "legally tenable" reading of the law applies only in situations where the law "can reasonably be read only one way" (1989 Off. Admin. Law Determination No. 15, Cal. Reg. Notice Register 89, No. 44-Z, pp. 3122, 3124), such that the agency's actions or decisions in applying the law are essentially rote, ministerial, or otherwise patently compelled by, or repetitive of, the statute's plain language. (See Cal. Law Revision Com. com., 32D West's Ann. Gov.Code (2005 ed.) foll. § 11340.9, p. 94; 1989 Off. Admin. Law Determination No. 15, Cal. Reg. Notice Register 89, No. 44-Z, pp. 3124-3131 [reviewing an agency interpretation of the law for compliance with the APA and concluding that although the agency had a "well-supported" rationale for its view, its [sic] was not the only legally tenable interpretation of the pertinent statute].)

In the present case, the state plan requires that the WIA be implemented solely through federal law. The Department has implemented the federal requirement for audit appeal procedures by entering into the Agreement. The federal provisions, and the Board audit regulations, must, therefore, be examined carefully to determine if the Agreement contains the only legally tenable interpretation of federal and state provisions.

An example of a provision that contains the only legally tenable interpretation of the WIA is that the WIA audit appeals will be conducted by the Board pursuant to its rules. Title 29, CFR, section 667.500(a)(2) requires that, "A State must utilize the audit resolution, debt collection and appeal procedures that it uses for other Federal grant programs." The state plan establishes the Department as the entity responsible for implementation of WIA, so the reference to the state is, in California, a reference to the Department. Section 667.500(a)(2), therefore, requires that the Department use the audit resolution, debt collection and appeal procedures that "it", that is, the Department, uses for other federal grant programs. The audit resolution procedures used by the Board²⁰ are the procedures the Department uses for other federal programs. The designation of the Board procedures as the audit procedures required by title 29, CFR, section 667.500(a)(2), is the only legally tenable interpretation of section 667.500(a)(2).

The Department has not identified the specific provisions it believes contain the only legally tenable interpretation of state or federal law. We have identified no other requirements in the Agreement that can be said to be the only legally tenable interpretation of applicable law.

²⁰ The Board is established as part of the Department in Unemployment Insurance Code section 401.

¹⁷ "California's Strategic Two-Year Plan For Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act, As Revised for the Period of July 1, 2007 — June 30, 2009," *supra*, at p. 64.

¹⁸ Government Code section 11346. See, for example, *Voss v. The Superior Court of Tulare County*, (1996) 46 Cal.App.4th 900.

¹⁹ *Morning Star Co. v. State Bd. of Equalization* (2006) 38 Cal.4th 324, 328, 132 P.3d 249.

2. The Agreement is a mere restatement of federal and state laws and regulations, including Unemployment Insurance Code section 1951 et seq.

As noted above, a restatement of law does not need to be adopted as a regulation pursuant to the APA because it does not meet the definition of "regulation." A restatement must simply reiterate the applicable law. It cannot further interpret, implement or make specific the law. We find that some provisions of the Agreement do restate applicable law; however, most are not restatements. As noted above, the following are examples of regulatory provisions in the Agreement that depart from or embellish upon existing federal or state law. These examples are not intended to be an exhaustive list of all provisions in the Agreement that meet the definition of "regulation":

- The ALJ may order a prehearing conference at which the representatives of the Director and Subrecipient shall be prepared to discuss the matter under appeal and to make stipulations or admissions where appropriate. The parties shall confer in person or by correspondence before the date assigned for this conference to reach agreement upon as many matters as possible. They shall prepare and submit to the ALJ at or before the conference a joint written statement of the factual and legal contentions remaining in dispute.
- Within 90 days after the record is closed, the ALJ shall prepare a proposed written decision for the Director.
- The Director shall affirm, reverse, or modify the determination of the ALJ

The state grievance and hearing procedures set forth in the Agreement which are not found in federal provisions further implement and make specific the federal WIA and federal WIA regulations, and are not restatements of law.

3. The Agreement is between the Department and the Board and therefore does not apply generally and is not an underground regulation.

The Department argues that the Agreement does not meet the definition of a "regulation" because it does not have general applicability. As discussed above, a rule need not apply to all persons in the state of California.²¹ It is sufficient if the rule applies to a clearly defined class of persons or situations. According to the Department's response "...the provisions in the Agreement prescribe the appeal process for the subrecipients who receive funding under WIA."²² By the Department's

own description, the terms of the Agreement apply generally to subrecipients of WIA funding. This is sufficient to find that there is general applicability.

4. The Agreement is not a regulation subject to the rulemaking requirements of the APA because it is nothing more than the delegation of hearing authority to the Board as required by title 29 of the Code of Federal Regulations section 667.500(a)(2).²³

As noted above, the Agreement requiring the use of the Board and its duly adopted procedures is the only legally tenable interpretation of title 29, CFR, section 667.500(a)(2). If the Agreement stopped with that simple requirement, the Agreement would be exempt from the procedures of the APA. However, the Agreement contains provisions which go beyond the Board procedures and is more than a mere delegation of hearing authority. The Agreement establishes hearing procedures and requirements for the Board's Administrative Law Judge as well as subrecipients subject to these requirements. Those requirements meet the definition of "regulation" and must be adopted pursuant to the APA.

CONCLUSION

Those provisions of the Agreement which are not contained in state or federal law meet the definition of a "regulation" as defined in section 11342.600 and do not fall within any express APA exemption. They should, therefore, have been adopted pursuant to the APA. Those provisions which restate applicable state or federal law or are the only legally tenable interpretation of the state or federal law need not be adopted pursuant to the APA.

July 23, 2008

/s/
SUSAN LAPSLEY
Director

/s/
Kathleen Eddy
Senior Counsel

/s/
Peggy Gibson
Staff Counsel

Cc: Patrick Henning
Sandra Hughes
Chian He

²¹ See the discussion of *Tidewater Marine Western, Inc. v. Victoria Bradshaw* (1996) 14 Cal.4th 557, 571, *supra*.

²² Department's Response to Petition, p. 1.

²³ Sec. 667.500(a)(2) A State must utilize the audit resolution, debt collection and appeal procedures that it uses for other federal grant programs.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2008-0619-03
CALIFORNIA ARCHITECTS BOARD
Fees

The California Architects Board amends Title 16 of the California Code of Regulations, section 2649 to change fees for the landscape architect application and landscape architect licenses. Specifically, the California Architects Board changes the fee for: (1) Sections C & E of the examination from \$280 to \$290; (2) the California Supplemental Examination from \$55 to \$225 until July 1, 2009, and to \$275 as of July 1, 2009; (3) original licenses from \$300 to \$400 as of July 1, 2009; and (4) biennial license renewal from \$300 to \$400 as of July 1, 2009.

Title 16
California Code of Regulations
AMEND: 2649
Filed 07/30/2008
Effective 08/01/2008
Agency Contact: Ethan Mathes (916) 575-7233

File# 2008-0702-03
DEPARTMENT OF CORRECTIONS AND REHABILITATION
Reorganization of Division 3, Subchapter 6, Parole

The Department of Corrections and Rehabilitation is reorganizing Div. 3, Subchapter 6, title 15, California Code of Regulations, entitled "Parole".

Title 15
California Code of Regulations
ADOPT: 3503, 3505, 3506, 3507, 3508, 3509, 3510, 3511, new Article 2 and title, 3520, 3521, 3521.1, 3521.2, 3521.3, 3521.4, 3521.5, 3521.6, 3522, 3523, 3524, 3525, 3526, 3527, new Article 3 and title, 3540, 3541, 3542, 3543, 3544, 3545, 3546, 3547, 3548, 3549, new Article 4 and title, 3560, 3561, 3562, 3563, 3564, new Article 5 and title, 3570, 3571, new Article 6 and title, 3580, 3581, 3582, new

Article 7 and title, new Article 8 and title, new Article 9 and title, new Article 10 and title, new Article 12 and title, 3640, new Article 13 and title, 3650, 3651, 3652, 3652.1, 3653, 3654, new Article 14 and title, 3700, 3701, 3702, 3703, 3704, 3705, 3706, 3707, new Article 15 and title, 3720, 3721, 3721.1, 3722, 3723, new Article 16 untitled, 3730, new Article 17 and title, new Article 18 and title, 3750, 3751, 3752, 3753, 3754, 3755, 3756, new Article 19 and title, 3760, 3761, 3762, 3763, 3764, 3765, 3766, new Article 20 and title, 3770, 3771, and 3772. AMEND: 3604, 3605, 3605.5, 3701.1, 3705, 3706, 3801, 3802, renumber old Article 2 with title, and 3815.

Filed 07/30/2008
Effective 07/30/2008
Agency Contact: Randy Marshall (916) 341-7328

File# 2008-0619-04
DEPARTMENT OF FOOD AND AGRICULTURE
Sanitation Standard Operating Procedures

This action amends the regulation that would require official establishments slaughtering or processing meat or poultry and subject to state inspection to prepare a sanitation standard operating procedure by January 1, 2009, in order to delay the operative date for one year.

Title 3
California Code of Regulations
AMEND: 902.9
Filed 07/25/2008
Effective 08/24/2008
Agency Contact: Nancy Grillo (916) 263-2347

File# 2008-0722-02
DEPARTMENT OF FOOD AND AGRICULTURE
Asian Citrus Psyllid Eradication Area

This emergency regulatory action proclaims the entire State of California as an eradication area for *Diaphorina citri* (Asian citrus psyllid) and specifies hosts and possible carriers and the means or methods for eradication, control, or suppression.

Title 3
California Code of Regulations
ADOPT: 3591.21
Filed 07/24/2008
Effective 07/24/2008
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0722-01
DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Interior Quarantine

On June 4 and July 1, 2008, Light Brown Apple Moths (LBAMs) were trapped in Santa Clara County within 3 miles of each other and within one life cycle.

This rulemaking will expand, by approximately seven square miles, the quarantine area for the LBAM in Santa Clara County to prevent its spread to non-infested areas in order to protect California's agriculture industry and environment.

Title 3
California Code of Regulations
AMEND: 3434(b)
Filed 07/28/2008
Effective 07/28/2008
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0611-04
DEPARTMENT OF INSURANCE
Revise/Remove Form to Reflect Amendments to CIC Section 11580.9

This non-substantive action relative to the California Automobile Assigned Risk Plan of Operations amends section 2498.4.9 of title 10 to reflect the legislative changes mandated in commercial vehicle coverage by recent enactments (2006 Cal. Stat. 345, former AB 1909) incorporated into Insurance Code section 11580.9.

Title 10
California Code of Regulations
AMEND: 2498.4.9
Filed 07/24/2008
Agency Contact: Mike Riordan (415) 538-4226

File# 2008-0611-03
DEPARTMENT OF INSURANCE
CAARP Plan of Operations Sections 20, 25, and 44

This change without regulatory effect amends sections 20, 26 and 44 of the CAARP Plan of Operations, which is incorporated by reference into section 2498.4.9 of the California Code of Regulations. These changes reiterate Insurance Code section 1734 that requires producers have trust accounts and reiterates the rule set out in sections 34 and 52 of the Plan that no commissions are to be withheld by producers when deposits, installment payments and premium payments are made.

Title 10
California Code of Regulations
AMEND: 2498.4.9
Filed 07/23/2008
Agency Contact: Mike Riordan (415) 538-4226

File# 2008-0611-01
DEPARTMENT OF INSURANCE
Amend CAARP Plan of Operations Sections 28 and 46
This change without regulatory effect amends sections 28 and 46 of the CAARP Plan of Operations, which is incorporated by reference into section 2498.4.9 of the California Code of Regulations. These changes remove reference to the name of a form that has been discontinued and corrects the name of two forms in the introduction part of the Plan. Also, nonsubstantive changes were made to sections 28 and 46 that deal with effective date of coverage for personal automobiles and commercial automobiles, respectively, and the instructions for using the EASi electronic system so that the process would be internally consistent in both sections.

Title 10
California Code of Regulations
AMEND: 2498.4.9
Filed 07/23/2008
Agency Contact: Mike Riordan (415) 538-4226

File# 2008-0620-03
DEPARTMENT OF INSURANCE
California Low Cost Automobile Insurance Program
These changes without regulatory effect update the information in the California Automobile Insurance Low Cost Program Plan of Operations, incorporated by reference into section 2498.6. This proposal updates Exhibit C, titled "Income Eligibility Guidelines," to indicate the change, from 2007 to 2008, in the federal poverty levels.
The 2008 federal poverty levels conform to the Annual Update of the Health and Human Services Poverty Guidelines published in the Federal Register by the U.S. Department of Health and Human Services. Exhibit C chart/table includes the maximum household income eligibility figures based on the program's statutory percentage of 250 percent of the federal poverty level. Ins. Code, sec. 11629.73(a).

Title 10
California Code of Regulations
AMEND: 2498.6
Filed 07/30/2008
Agency Contact:
Bryant W. Henley (415) 538-4111

File# 2008-0711-01
FISH AND GAME COMMISSION
Annual Permit, Application & Tag Adjustments for Section 702

This filing submitted as a change without regulatory effect revises the permit, application, and tag amounts for 2008 pursuant to sections 713 and 1050 of the Fish and Game Code.

Title 14
California Code of Regulations
AMEND: 702
Filed 07/28/2008
Agency Contact: Jon Snellstrom (916) 653-4899

File# 2008-0709-01
FISH AND GAME COMMISSION
Klamath River Sport Fishing

This regulatory action establishes the 2008 sport fishing regulations for the anadromous waters of the Lower Klamath River Basin.

Title 14
California Code of Regulations
AMEND: 7.50
Filed 07/23/2008
Effective 08/15/2008
Agency Contact: Sherrie Koell (916) 654-9866

File# 2008-0620-07
OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD
Drinking Water In Construction

This amendment to section 1524 allows for further flexibility as to how employers provide the required amount of potable water to employees working on construction sites. Water may be supplied in a variety of ways, i.e., individual water bottles, reusable containers, fountains, refillable containers with disposable cups, etc.

Title 8
California Code of Regulations
AMEND: 1524
Filed 07/30/2008
Effective 08/29/2008
Agency Contact: Marley Hart (916) 274-5721

File# 2008-0613-03
SPEECH-LANGUAGE PATHOLOGY AND
AUDIOLOGY BOARD
Clinical Experience/Supervisor Qualifications

This regulatory action revises requirements for persons supervising clinical experience for speech-language pathologist or audiologist applicants for licensure, and deletes outdated references to aural rehabilitation.

Title 16
California Code of Regulations
AMEND: 1399.152.2, 1399.153, 1399.153.3
Filed 07/23/2008
Effective 08/22/2008
Agency Contact:
Annemarie Del Mugnaio (916) 263-2666

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN FEBRUARY 27, 2008 TO
JULY 30, 2008**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

04/24/08 AMEND: Appendix A

Title 2

07/16/08 ADOPT: 18946.6
07/10/08 AMEND: 1859.76, 1859.83, 1859.104.3
07/10/08 AMEND: 1859.71
07/08/08 AMEND: 2271
06/26/08 AMEND: 554.2, 554.3
06/17/08 ADOPT: div. 8, ch. 112, sec. 59570
06/11/08 AMEND: 18360, 18361
06/11/08 ADOPT: 18421.7 AMEND: 18401
06/11/08 ADOPT: 18944.2 REPEAL: 18944.2
05/21/08 ADOPT: 59580
05/14/08 ADOPT: 18413
05/13/08 ADOPT: 59620
05/06/08 AMEND: 43000, 43001, 43002, 43003, 43004, 43005, 43006, 43007, 43008, 43009
04/30/08 AMEND: 1859.2, 1859.61, 1859.81, 1859.82, 1859.83, 1859.202, 1866, Form SAB 50-04 (Rev. 01/08)
04/29/08 ADOPT: 1859.190, 1859.191, 1859.192, 1859.193, 1859.193.1, 1859.194, 1859.195, 1859.196, 1859.197, 1859.198, 1859.199 AMEND: 1859.2, 1859.51, 1859.81, Form SAB 50-04 (Revised 01/08), Form SAB 50-05 (Revised 01/08), Form SAB 50-10 (Revised 01/08)
04/24/08 ADOPT: 1183.081, 1183.131, 1183.30, 1183.31, 1183.32 AMEND: 1181.1, 1181.2, 1181.3, 1183, 1183.01, 1183.04, 1183.08, 1183.11, 1183.13, 1183.14, 1183.3, 1188.3
04/10/08 AMEND: 1866, 1866.4.3, 1866.13, Form SAB 40-22 (Rev. 10/07)
04/09/08 AMEND: 18997
03/28/08 ADOPT: 59630
03/24/08 AMEND: 18735
03/19/08 AMEND: 55300
03/19/08 AMEND: 549.90

03/19/08	AMEND: 18200	06/24/08	ADOPT: 12335, 12340, 12357 AMEND:
03/03/08	AMEND: 1859.76, 1859.83, 1859.104.3		12342, 12343, 12344, 12345, 12358,
Title 3			12359
07/28/08	AMEND: 3434(b)	05/23/08	ADOPT: 1843.3 AMEND: 1843.2
07/25/08	AMEND: 902.9	05/01/08	AMEND: 1844
07/24/08	ADOPT: 3591.21	04/08/08	AMEND: 1467
07/22/08	AMEND: 3417(b)	03/24/08	AMEND: 10177, 10178, 10181, 10182,
07/16/08	AMEND: 3700		10187, 10188, 10189
07/16/08	AMEND: 3406	02/29/08	ADOPT: 8102, 8102.1, 8102.2, 8102.3,
07/14/08	AMEND: 3963		8102.4, 8102.5, 8102.6, 8102.7, 8102.8,
07/11/08	AMEND: 3434(b)		8102.9, 8102.10, 8102.11, 8102.12,
07/09/08	AMEND: 3434(b)		8102.13, 8102.14, 8102.15 AMEND:
06/30/08	AMEND: 3589(a)		8090, 8091, 8092, 8093, 8094, 8095,
06/24/08	AMEND: 3963		8096, 8097, 8098, 8099, 8100, 8101
06/24/08	AMEND: 3060.3	Title 5	
06/23/08	AMEND: 3591.5(a)	07/16/08	AMEND: 18272
06/17/08	AMEND: 2751	06/24/08	AMEND: 80021
06/16/08	AMEND: 3434(b)	06/19/08	AMEND: 4600(l)
06/11/08	AMEND: 3434(b)	06/13/08	ADOPT: 55185, 57017 AMEND: 55180,
06/09/08	AMEND: 3700		57001.7, 58003.4, 58770, 58771, 58774
06/04/08	AMEND: 3434(b)	06/10/08	AMEND: 30910, 30911, 30912, 30913,
05/23/08	AMEND: 3434(b)		30914, 30916
05/23/08	AMEND: 1438.7, 1438.17	06/10/08	AMEND: 30920, 30921, 30922, 30923,
05/07/08	AMEND: 3434(b)		30924, 30925, 30927
05/05/08	AMEND: 3406(b)	06/09/08	ADOPT: 19828.3, 19837.2 AMEND:
05/02/08	AMEND: 3417(b)		19816, 19816.1, 19828.2, 19837.1,
05/02/08	AMEND: 3434		19846
04/30/08	AMEND: 3591.20	05/28/08	ADOPT: 18085.5, 18086.1 AMEND:
04/23/08	AMEND: 6550		18086, 18087, 18088, 18091, 18101,
04/21/08	AMEND: 3700		18102, 18104
04/18/08	AMEND: 3434(b)	05/21/08	ADOPT: 6105 AMEND: 6100, 6104
04/16/08	AMEND: 3434(b) & (c)	05/13/08	AMEND: 15440, 15441, 15442, 15443,
04/15/08	AMEND: 3433(b)		15444, 15445, 15446, 15447, 15448,
04/08/08	AMEND: 3434(b)		15449, 15450, 15451, 15452, 15453,
04/02/08	AMEND: 3433(b)		15454, 15455, 15456, 15457, 15458,
04/02/08	AMEND: 3433(b)		15459, 15460, 15461, 15462, 15463,
04/01/08	ADOPT: 821, 821.1, 821.2, 821.3, 821.4,		15464, 15467, 15468, 15469, 15471,
	821.5 REPEAL: 784, 784.1, 784.2, 800,		15471.1, 15471.2, 15472, 15473, 15474,
	800.1, 801, 802		15475, 15476, 15477, 15478, 15479,
03/26/08	AMEND: 3434(b)		15479.5, 15480, 15481, 15483, 15484,
03/21/08	AMEND: 3434(b)		15485, 15486, 15487, 15488, 15489,
03/19/08	AMEND: 6620		15490, 15493
03/17/08	AMEND: 3434(b)	05/05/08	ADOPT: 11315.5 and 11315.6 AMEND:
03/17/08	AMEND: 3406(b)		11315
03/17/08	AMEND: 3700(c)	05/01/08	AMEND: 80440, 80443
03/13/08	AMEND: 6860	04/21/08	ADOPT: 18134
03/12/08	AMEND: 3434(b)	04/21/08	ADOPT: 18134
03/12/08	AMEND: 3406(b)	03/03/08	ADOPT: 9510.5, 9512, 9513, 9514, 9525
03/05/08	AMEND: 3875		AMEND: 9510, 9511, 9515, 9516, 9517,
03/04/08	AMEND: 3867		9518, 9519, 9521, 9522, 9523, 9524,
03/03/08	AMEND: 3591.20		9527, 9528, 9529, 9530 REPEAL:
			9517.1, 9520
Title 4			
07/14/08	AMEND: 8070, 8072, 8073		
07/10/08	AMEND: 1481, 1783, 1784		

02/28/08	ADOPT: 11969.10, 11969.11 AMEND: 11969.1, 11969.2, 11969.3, 11969.4, 11969.6, 11969.7, 11969.8, 11969.9	2405.1, 2405.2; Article 16, Sections 2420.3; Article 45; Sections 2480.6, 2480.7, 2484.24, 2500.7, 2500.8, 2500.9, 2500.10, 2500.11, 2500.23, 2505.10, 2505.11, 2510.4, 2510.5, 2510.6, 2510.7, 2510.56, 2510.58, 2522.2, 2530.4, 2530.102, 2530.103, 2530.104, 2530.107, 2530.112, 2533.1, 2534.6, 2534.8, 2540.1, 2540.2, 2540.3, 2540.4, 2560.2, 2561.1, 2561.3, 2561.31, 2561.32, 2563.23, 2563.33; Article 77, Section 2565.3; Sections 2568.8, 2568.15, 2569.1, 2569.6, 2569.7, 2569.20, 2569.51; Article 80, Sections 2571.1 and 2571.16. REPEAL: 2340.23, 2350.11, 2390.83, 2395.7, 2395.33, 2395.43, 2395.50, 2480.8, 2522.8 and 2561.50.
Title 7		
06/10/08	ADOPT: 236.1	
Title 8		
07/30/08	AMEND: 1524	
07/18/08	AMEND: 290.0, 290.1, 291.0, 291.1, 291.2, 291.5, 292.0, 294.0, 295.0, 296.0, 296.1, 296.2, 296.3, 296.4	
07/18/08	AMEND: 2500.7	
07/17/08	AMEND: 4885, 4924, 5004	
07/17/08	AMEND: 1604.24, 1604.26	
07/14/08	AMEND: Appendix B following 1541.1	
06/30/08	ADOPT: 4300.1 AMEND: 4297, 4300	
06/06/08	AMEND: 1710(k)(2)	
05/19/08	AMEND: 1529, 5208, 8358	
05/19/08	AMEND: 1710	
05/19/08	AMEND: 797, 1604.10, 1601.21, 1662	04/11/08 AMEND: 7016(c)
05/05/08	ADOPT: 2340.2, 2340.5, 2340.8, 2340.10, 2340.12, 2340.14; Article 6, Sections 2360.1 through 2360.5; Sections 2375.7, 2375.25, 2380.1, 2390.10, 2390.20, Article 12, Sections 2400.1, 2400.2; Sections 2418.2, 2418.3, 2418.4, 2418.5, 2418.6, 2420.4, 2420.5, 2420.6, 2420.7, 2473.1, 2473.2, 2480.5, 2480.9, 2484.5, 2484.6; Article 48.1, Sections 2485.1, 2485.2; Sections 2505.2, 2510.8, 2522.20, 2530.120, 2530.121; Article 58.1, Section 2535.1; Sections 2540.11, 2540.11 Figure S-1, 2560.3; Article 74.1, Sections 2562.1 through 2562.7; Article 77.1, Sections 2566.1 through 2566.3; Article 77.2, Sections 2567.1 through 2567.3; Sections 2569.5, 2571.9, 2571.30; Article 83, Sections 2583.1 through 2583.8; Article 84, Sections 2584.1 through 2584.8; Article 85, Sections 2585.1 through 2585.3; Article 86, Sections 2586.1 through 2586.4; Article 87, Sections 2587.1 through 2587.5; Article 88, Sections 2588.1 through 2588.3; Article 89, Sections 2589.1 and 2589.2. AMEND: 2300, 2305.2, 2305.4, 2340.9, 2340.11, 2340.13, 2340.16, Table 2340.16, 2340.17, 2340.18, 2340.21, 2340.22; Article 5, Section 2350.2; Sections 2375.1, 2375.18, Table 2375.18, Sections 2375.19, 2390.1, 2390.24, 2390.41, 2390.81, 2395.3, 2395.5, 2395.6, 2395.23, 2395.25, 2395.32, 2395.42, 2395.44, 2395.45, 2395.57, 2395.58,	04/07/08 AMEND: 10116, 10116.1, 10117.1, 10118.1, 10119, 10120, 10121, 10136, 10137, 10225, 10225.1, 10225.2
		04/01/08 ADOPT: 3140, 3141, 3141.1, 3141.2, 3141.3, 3141.4, 3141.5, 3141.6, 3141.7, 3141.8, 3141.9, 3141.10, 3141.11, 3141.12, 3141.13, 3142, 3142.1, 3142.2, 3143, 3144, 3145, 3146 AMEND: 3000, 3001, 3009, 3094.2, 3120.6, 3137
		03/05/08 AMEND: 1504, 1597
		03/05/08 AMEND: 3228
		02/29/08 AMEND: 3270
Title 9		
07/11/08	ADOPT: 1810.207.5, 1810.220.5 AMEND: 1830.220	
07/02/08	AMEND: 9515(d), 10522(b)	
03/06/08	AMEND: 10025, 10057, 10515, 10518, 10524, 10545, 10550, 10606, 11014, 11017, 11024, 13070	
02/28/08	ADOPT: 7024.9, 7025.4, 7136.4, 7136.5, 7136.6, 7136.7, 7136.8, 7136.9, 7137, 7138, 7179.4, 7179.5 REPEAL: 7136.5	
Title 10		
07/30/08	AMEND: 2498.6	
07/24/08	AMEND: 2498.4.9	
07/23/08	AMEND: 2498.4.9	
07/23/08	AMEND: 2498.4.9	
07/21/08	ADOPT: 2330.1, 2330.3, 2330.4, 2330.5	
07/17/08	AMEND: 2498.6	
07/10/08	REPEAL: 2191	
07/10/08	AMEND: 2699.6611	
07/07/08	ADOPT: 2699.6602, 2699.6604 AMEND: 2699.6603, 2699.6605, 2699.6607, 2699.6608, 2699.6611, 2699.6625	

06/24/08	ADOPT: 2232.45.1, 2232.45.2, 2232.45.3, 2232.45.4, 2232.45.5 AMEND: 2536.2	07/08/08	ADOPT: 124.1 AMEND: 122, 125, 149.1, 150, 150.02, 150.03, 150.05, 163, 163.5, 164, 174, 180.3
06/16/08	AMEND: 2318.6, 2353.1	07/02/08	AMEND: 7.50
06/02/08	ADOPT: 10.190202	07/01/08	AMEND: 27.80
05/27/08	AMEND: 2249.2–2249.9, 2249.12, 2249.15	06/30/08	AMEND: 120.7
05/16/08	ADOPT: 2642.8, 2644.28 AMEND: 2642.6, 2642.7, 2644.2, 2644.3, 2644.6, 2644.7, 2644.8, 2644.12, 2644.16, 2644.17, 2644.19, 2644.20, 2644.21, 2644.23, 2644.25, 2644.27	06/23/08	AMEND: 18660.23, 18660.24, 18660.25, 18660.33, 18660.34
04/30/08	AMEND: 2697.6, 2697.61	06/20/08	AMEND: 360, 361, 362, 363, 364, 551, 708, 712
04/29/08	ADOPT: 10.19900, 10.19901	06/18/08	ADOPT: 355
04/28/08	AMEND: 310.111	06/16/08	AMEND: 10602, 10800
03/27/08	AMEND: 2699.6500, 2699.6805, 2699.6803	05/15/08	AMEND: 353, 475
03/20/08	AMEND: 1950.314.8	05/09/08	AMEND: 27.20, 27.25, 27.30, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.51, 28.52, 28.53, 28.54, 28.55, 28.56, 28.57, 28.58
03/18/08	AMEND: 2498.6	05/02/08	AMEND: 825.05
03/12/08	ADOPT: 2699.402 AMEND: 2699.100, 2699.205, 2699.6600, 2699.6607, 2699.6608, 2699.6613, 2699.6625, 2699.6629, 2699.6813	04/28/08	ADOPT: 17987, 17987.1, 17987.2, 17987.3, 17987.4, 17987.5
03/06/08	AMEND: 260.241, 260.241.2 REPEAL: 260.218.5, 260.241.1	04/28/08	AMEND: 815.05
Title 11		04/25/08	AMEND: 17210.2, 17210.4, 17855.2, 17862, 17867
07/08/08	ADOPT: 30.14	04/07/08	AMEND: 228(b)(1)
06/17/08	AMEND: 1005, 1007, 1008, 1080	04/04/08	AMEND: 27.80
05/28/08	AMEND: 2000, 2001, 2010, 2020, 2030, 2037, 2038, 2050, 2051, 2052, 2053, 2060, 2070, 2071, 2072, 2140	03/26/08	AMEND: 630
04/14/08	AMEND: 1081	03/14/08	ADOPT: 13255.1 AMEND: 13055, 13111, 13169, 13255.0, 13255.1, 13255.2, 13576
02/29/08	AMEND: 1009, 1070, 1071, 1082, 1083	03/14/08	ADOPT: 5.79, 5.88, 29.16, 29.91 AMEND: 1.74, 5.80, 5.81, 5.87, 27.90, 27.91, 27.92, 29.15, 29.90, 701
Title 13		03/13/08	AMEND: 671
07/15/08	AMEND: 440.04	03/10/08	ADOPT: 18218, 18218.1, 18218.2, 18218.3, 18218.4, 18218.5, 18218.6, 18218.7, 18218.8, 18218.9
06/16/08	ADOPT: 156.01	02/28/08	AMEND: 17211.1, 17211.4, 17211.7, 17211.9
06/16/08	AMEND: 1961, 1965	02/28/08	ADOPT: 749.3
06/10/08	AMEND: 2222	Title 15	
06/02/08	AMEND: 1141	07/30/08	ADOPT: 3503, 3505, 3506, 3507, 3508, 3509, 3510, 3511, new Article 2 and title, 3520, 3521, 3521.1, 3521.2, 3521.3, 3521.4, 3521.5, 3521.6, 3522, 3523, 3524, 3525, 3526, 3527, new Article 3 and title, 3540, 3541, 3542, 3543, 3544, 3545, 3546, 3547, 3548, 3549, new Article 4 and title, 3560, 3561, 3562, 3563, 3564, new Article 5 and title, 3570, 3571, new Article 6 and title, 3580, 3581, 3582, new Article 7 and title, new Article 8 and title, new Article 9 and title, new Article 10 and title, new Article 12 and title, 3640, new Article 13 and
05/16/08	ADOPT: 2449, 2449.1, 2449.2, 2449.3		
05/01/08	AMEND: 1		
04/28/08	AMEND: 120.00, 120.01, 120.02, 124.93, 124.95 REPEAL: 120.04		
04/10/08	AMEND: 1202.1, 1202.2, 1232		
04/07/08	AMEND: 2451, 2452, 2453, 2458, 2461		
03/07/08	AMEND: 345.02, 345.06, 345.21, 345.22		
03/04/08	AMEND: 2485		
Title 13, 17			
07/02/08	AMEND: 2299.1, 93118		
Title 14			
07/28/08	AMEND: 702		
07/23/08	AMEND: 7.50		
07/15/08	ADOPT: 4860		

title, 3650, 3651, 3652, 3652.1, 3653, 3654, new Article 14 and title, 3700, 3701, 3702, 3703, 3704, 3705, 3706, 3707, new Article 15 and title, 3720, 3721, 3721.1, 3722, 3723, new Article 16 untitled, 3730, new Article 17 and title, new Article 18 and title, 3750, 3751, 3752, 3753, 3754, 3755, 3756, new Article 19 and title, 3760, 3761, 3762, 3763, 3764, 3765, 3766, new Article 20 and title, 3770, 3771, and 3772. AMEND: 3604, 3605, 3605.5, 3701.1, 3705, 3706, 3801, 3802, renumber old Article 2 with title, and 3815.

07/17/08 ADOPT: 3134.1 AMEND: 3130, 3131, 3132, 3133, 3134, 3135, 3136, 3137, 3138, 3139, 3140, 3141, 3142, 3143, 3144, 3145, 3146, 3147

07/14/08 ADOPT: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.5, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1756, 1757, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, 1792

07/08/08 ADOPT: 3334 AMEND: 3000

06/23/08 ADOPT: 2275

06/04/08 AMEND: 3190, 3191

05/23/08 ADOPT: 1417 AMEND: 1029, 1206, 1248, 1357, 1358, 1461

04/18/08 AMEND: 3291, 3293

04/07/08 AMEND: 3173.2

03/27/08 ADOPT: 2536.1

03/18/08 ADOPT: 3269 AMEND: 3315

03/18/08 ADOPT: 3486 AMEND: 3482, 3484, 3485

03/06/08 ADOPT: 3355.2 AMEND: 3030, 3050, 3268.2, 3355, 3355.1

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07/30/08 AMEND: 2649

07/23/08 AMEND: 1399.152.2, 1399.153, 1399.153.3

07/18/08 AMEND: 134 REPEAL: 135

07/09/08 ADOPT: 1984

07/08/08 AMEND: 1399.540

07/03/08 AMEND: 1568

07/02/08 AMEND: 390, 390.1, 390.3, 390.4, 390.5, 390.6 REPEAL: 390.2

06/30/08 ADOPT: 119.7

06/26/08 AMEND: 109, 116

06/17/08 ADOPT: 4580

06/16/08 ADOPT: 4400, 4402, 4404, 4406, 4420, 4422, 4424, 4426, 4428, 4500, 4520, 4522, 4540, 4542, 4560, 4562

06/11/08 REPEAL: 1399.664

06/04/08 AMEND: 931

05/21/08 AMEND: 4141

05/20/08 AMEND: 905

05/19/08 ADOPT: 4440, 4442, 4443, 4444, 4446, 4448, 4450, 4452, 4470, 4472, 4474, 4476, 4478, 4480, 4482, 4484

05/16/08 AMEND: 1399.696, 1399.697

05/12/08 AMEND: 1399.523

05/08/08 REPEAL: 3300

05/07/08 ADOPT: 1364.32 AMEND: 1364.30

05/02/08 AMEND: 1079.2

04/29/08 AMEND: 1970, 1970.4(a), 1973(b)

04/24/08 AMEND: 1387.3

04/24/08 AMEND: 3000

04/17/08 AMEND: 1399.660

04/16/08 ADOPT: 973, 973.1, 973.2, 973.3, 973.4, 973.5, 973.6

04/14/08 AMEND: 1380.1

04/10/08 AMEND: 4123

04/01/08 AMEND: 1381.5, 1388, 1388.6, 1392

03/26/08 AMEND: 3065

03/24/08 AMEND: 974

03/18/08 AMEND: 1399.651

03/12/08 AMEND: 1435.2

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07/14/08 AMEND: 57310, 57332

07/14/08 ADOPT: 100120

07/08/08 AMEND: 95005

07/02/08 AMEND: 2299.1, 93118

06/12/08 ADOPT: 94016, 94168 AMEND: 94010, 94011

05/30/08 AMEND: 100080, 100085, 100090, 100100

04/30/08 ADOPT: 35004, 35005.1, 35031, 35088, 36050 AMEND: 35001, 35002, 35003, 35005, 35006, 35007, 35008, 35009, 35010, 35012, 35013, 35014, 35015, 35016, 35018, 35019, 35020, 35021, 35022, 35025, 35026, 35027, 35028, 35029, 35030, 35032, 35033, 35034, 35035, 35036, 35037, 35038, 35039, 35040, 35041, 35042, 35043, 35044, 35045, 35046, 35047, 35048, 35049, 35050, 35051, 35052, 35053, 35054, 35055, 35056, 35057, 35061, 35065, 35066, 35067, 35070, 35072, 35076, 35078, 35080, 35081, 35082, 35083, 35085, 35087, 35089, 35091, 35093, 35095, 35096, 35097, 35099, 36000, 36100 REPEAL: 35023

04/21/08 AMEND: 54355

04/21/08 AMEND: 93115.4, 93115.6, 93115.10

04/18/08 ADOPT: 93120, 93120.1, 93120.2, 93120.3, 93120.4, 93120.5, 93120.6,

04/11/08	93120.7, 93120.8, 93120.9, 93120.10, 93120.11, 93120.12	Title 22	06/26/08	AMEND: 100140, 100141, 100163, 100172, 100174
	ADOPT: 30333.05, 30333.07, 30333.3, 30335.1, 30335.2, 30335.3, 30335.4, 30335.5, 30335.6, 30335.10, 30336.1, 30336.5, 30336.6, 30336.7, 30336.8, 30338 AMEND: 30195.3, 30295, 30330, 30331, 30332, 30332.1, 30332.2, 30332.3, 30332.4, 30332.5, 30332.6, 30332.7, 30332.8, 30333, 30333.1, 30333.2, 30334, 30336, 30337 REPEAL: 30335		06/23/08	AMEND: 12805
04/03/08	AMEND: 6508		06/17/08	ADOPT: 25000, 25102, 25103, 25104, 25201, 25203, 25204, 25301, 25302, 25303, 25304, 25305, 25306, 25401, 25403, 25405, 25501, 25502, 25503, 25504, 25505, 25601, 25701, 25703, 25705, 25707, 25709, 25711, 25713, 25721, 25801, 25803, 25805, 25821, 25900, 25901, 25902, 25903, 27000, 28001, 28002, 28003, 28004, 28006, 28007, 28008, 28009, 28010, 28011, 28012, 28013, 28014, 28015, 28016, 28017, 28018, 28019, 28020, 28021, 28022, 28023, 28024, 28025, 28026, 28027, 28028, 28029, 28030, 28031, 28032, 28033, 28034, 28035, 25036, 28037, 28038, 28039, 28040 REPEAL: 12000, 12102, 12103, 12104, 12201, 12203, 12204, 12301, 12302, 12303, 12304, 12305, 12306, 12401, 12403, 12405, 12501, 12502, 12503, 12504, 12505, 12601, 12701, 12703, 12705, 12707, 12709, 12711, 12713, 12721, 12801, 12803, 12805, 12821, 12900, 12901, 12902, 12903, 14000, 15001, 15002, 15003, 15004, 15006, 15007, 15008, 15009, 15010, 15011, 15012, 15013, 15014, 15015, 15016, 15017, 15018, 15019, 15020, 15021, 15022, 15023, 15024, 15025, 15026, 15027, 15028, 15029, 15030, 15031, 15032, 15033, 15034, 15035, 15036, 15037, 15038, 15039, 15040
04/02/08	AMEND: 93119			
04/02/08	AMEND: 93119			
03/17/08	ADOPT: 100700			
03/10/08	ADOPT: 30704, 30712, 30713 AMEND: 30700, 30701, 30702, 30703, 30710, 30711, 30714, 30720, 30721, 30722, 30723, 30730, 30735, 30736, 30740, 30741, 30750, 30751, 30752, 30753 REPEAL: 30715, 30724, 30734.1			
03/04/08	ADOPT: 100400, 100401, 100402, 100403, 100404, 100405, 100406, 100407, 100408, 100409, 100410			
Title 18				
07/16/08	AMEND: 5216, 5310, 5311, 5326.4, 5326.6, 5333, 5333.4, 5333.6, 5523.4			
06/23/08	AMEND: 19503			
06/10/08	ADOPT: 2558, 2559, 2559.1, 2559.3, 2559.5			
06/04/08	AMEND: 23038(b)–2, 23038(b)–3			
04/29/08	AMEND: 25137(c)(1)(D)			
04/23/08	AMEND: 1620			
04/10/08	AMEND: 1570			
Title 19				
06/06/08	AMEND: 200, 203, 204, 206, 207, 208, 209, 211, 212, 214, 215, 216, 217		05/08/08	ADOPT: 66260.201 AMEND: 66260.10, 66261.9, 66273.1, 66273.3, 66273.6, 66273.8, 66273.9, 66273.12, 66273.13, 66273.14, 66273.20, 66273.32, 66273.33, 66273.34, 66273.40, 66273.51, 66273.53, 66273.56, 66273.82, 66273.83, 66273.90, Appendix X to Chapter 11
04/23/08	ADOPT: 2660 AMEND: 2720, 2723, 2724, 2725, 2726, 2728		05/06/08	ADOPT: 72038, 72077.1, 72329.1 AMEND: 72077, 72329
Title 20				
05/20/08	AMEND: 2323(a), 2323(b), 2323(c), 2323(d), 2323(e), 2323(f), 2325(a), 2329(c), 2329(e), 2330(a), 2332(d), 2333(a), 2335(b)		04/18/08	AMEND: 4410 REPEAL: 4410.5
04/15/08	ADOPT: 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, Appendix A		04/15/08	AMEND: 50960.2, 50960.4, 50960.6, 50960.9, 50960.12, 50960.15, 50960.21, 50960.23, 50960.26, 50960.29, 50960.32, 50960.34, 50960.36, 50962, 50963, 50964, 50965, 50966
Title 21			03/27/08	AMEND: 12705(b)
06/30/08	ADOPT: 111, 112, 113, 114, 121, 131, 132, 133, 134, 135, 136, 141, 151, 152, 153		03/18/08	AMEND: 12000

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03/03/08	AMEND: 926-3, 926-4, 926-5	05/12/08	AMEND: 3947
02/28/08	AMEND: 51000.3, 51000.30, 51000.50	05/12/08	AMEND: 3939.22
Title 22, MPP		03/10/08	ADOPT: 3919.2
07/09/08	ADOPT: 88054, 89318 AMEND: 80017, 83017, 83064, 83075, 84065, 84068.2, 84090, 84165, 84265, 86065, 86068.2, 86517, 88001, 88022, 88031, 88065.3, 88068.2, 88069.7, 89317, 89378, 89405	02/28/08	ADOPT: 3919.1
07/09/08	ADOPT: 88054, 89318 AMEND: 80017, 83017, 83064, 83075, 84065, 84068.2, 84090, 84165, 84265, 86065, 86068.2, 86517, 88001, 88022, 88031, 88065.3, 88068.2, 88069.7, 89317, 89378, 89405	Title 25	
06/30/08	AMEND: 63-300, 63-504, 63-505, 63-601	07/14/08	AMEND: 2002, 4004, 5002, 5511
03/05/08	AMEND: 87101, 87102, 87106, 87107, 87110, 87111, 87112, 87113, 87114, 87115, 87116, 87117, 87118, 87218, 87219, 87219.1, 87220, 87222, 87223, 87224, 87225, 87226, 87227, 87227.1, 87228, 87229, 87230, 87231, 87235, 87236, 87340, 87342, 87342.1, 87343, 87344, 87345, 87346, 87451, 87452, 87453, 87454, 87455, 87455.1, 87457, 87458, 87560, 87561, 87562, 87564, 87564.2, 87564.3, 87564.4, 87564.5, 87565, 87566, 87567, 87568, 87569, 87570, 87571, 87572, 87573, 87574, 87575, 87575.1, 87575.2, 87576, 87577, 87578, 87579, 87580, 87581, 87582, 87583, 87583.1, 87584, 87585, 87586, 87587, 87588, 87589, 87590, 87591, 87592, 87593, 87686, 87689, 87690, 87691, 87692, 87700, 87701, 87701.1, 87701.2, 87701.3, 87701.5, 87702, 87702.1, 87703, 87704, 87705, 87706, 87707, 87708, 87709, 87710, 87711, 87713, 87716, 87716.1, 87720, 87721, 87722, 87724, 87725, 87725.1, 87730, 87730.1, 87730.2, 87731, 87731.1, 87731.2, 87731.3, 87731.4, 87755, 87756, 87757, 87758, 87759, 87761, 87763, 87766, 87768, 87769, 87775, 87777, 87785, 87786, 87787, 87788, 87789, 87791, 87792, 87793 REPEAL: 87725.2	04/02/08	ADOPT: 7201, 7205, 7205.1, 7205.2, 7205.3, 7206, 7207, 7209, 7211, 7215, 7225, 7231 AMEND: 7200, 7202, 7204, 7206 (renumbered to 7209.5), 7208, 7210, 7212, 7218 (renumbered to 7217), 7220, 7222, 7224, 7226, 7228, 7230, 7232, 7234, 7239 (renumbered to 7201) REPEAL: 7214, 7216
		04/01/08	AMEND: 6932
		Title 27	
		06/17/08	ADOPT: 25000, 25102, 25103, 25104, 25201, 25203, 25204, 25301, 25302, 25303, 25304, 25305, 25306, 25401, 25403, 25405, 25501, 25502, 25503, 25504, 25505, 25601, 25701, 25703, 25705, 25707, 25709, 25711, 25713, 25721, 25801, 25803, 25805, 25821, 25900, 25901, 25902, 25903, 27000, 28001, 28002, 28003, 28004, 28006, 28007, 28008, 28009, 28010, 28011, 28012, 28013, 28014, 28015, 28016, 28017, 28018, 28019, 28020, 28021, 28022, 28023, 28024, 28025, 28026, 28027, 28028, 28029, 28030, 28031, 28032, 28033, 28034, 28035, 25036, 28037, 28038, 28039, 28040 REPEAL: 12000, 12102, 12103, 12104, 12201, 12203, 12204, 12301, 12302, 12303, 12304, 12305, 12306, 12401, 12403, 12405, 12501, 12502, 12503, 12504, 12505, 12601, 12701, 12703, 12705, 12707, 12709, 12711, 12713, 12721, 12801, 12803, 12805, 12821, 12900, 12901, 12902, 12903, 14000, 15001, 15002, 15003, 15004, 15006, 15007, 15008, 15009, 15010, 15011, 15012, 15013, 15014, 15015, 15016, 15017, 15018, 15019, 15020, 15021, 15022, 15023, 15024, 15025, 15026, 15027, 15028, 15029, 15030, 15031, 15032, 15033, 15034, 15035, 15036, 15037, 15038, 15039, 15040
Title 22, 27		03/21/08	AMEND: 15100, 15110, 15140, 15150, 15160, 15170, 15185, 15186, 15187, 15187.1, 15190, 15200, 15210, 15220, 15230, 15240, 15241, 15250, 15260, 15280, 15290, 15300, 15310, 15330, 15400.2, 15600
07/07/08	AMEND: Title 22, 67450.11; Title 27, Div. 3, subd. 1, Chapter 4C. and Chapter 6		
Title 23			
07/01/08	AMEND: 3935		
06/27/08	ADOPT: 3949.5		
06/26/08	ADOPT: 2918		
05/13/08	ADOPT: 3919.3		

Title MPP

06/30/08	AMEND: 63-300, 63-504, 63-505, 63-601	70-103, 70-104, 70-105 AMEND: 30-755, 30-770, 40-105, 42-430, 42-431, 42-433, 42-711, 49-020,
06/30/08	AMEND: 42-721, 42-780, 44-303, 44-307, 44-318, 82-812	49-030, 49-060, 63-403, 69-201, 69-202, 69-205
06/26/08	ADOPT: 40-037, 70-101, 70-102,	06/04/08 AMEND: 63-301